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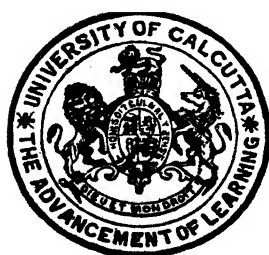
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# GODWIN AND SHELLEY

BY

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1

## *Introduction.*

Towards the end of the eighteenth century, the greatest influence on European thought, its political and social ideals, was the revolutionary movement in France. The principles enunciated by the thinkers of this school, appealing as they did to the noble and disinterested aspects of human nature, left an indelible impression on the minds of men; especially on those impatient idealists who, oppressed by a sense of social injustice and political inequality, were always urged on by an eager desire to hasten the advent of the Human Millennium. They were welcomed with great enthusiasm by a powerful group of English poets and philosophers who found in them a message of hope for suffering humanity. A new world of "Political Justice" was now revealed to their imagination—a world in which the wicked intolerance of modern civilisation would cease from troubling and the mind would be free; and anxious as they were for the redemption of man, the ideals of life underlying this movement of thought seemed to offer them a nobler and broader basis for the reconstruction of society. They were inspired with a new vision of society and religion, and with an implicit faith in the perfectibility of the human nature, sought to translate their dreams into reality. Accepting, as a fact, the supremacy of the human reason, they aspired to re-form society



by enlightening the minds of common men ; “ Ignorance is the parent of bigotry, intolerance, persecution and slavery. Inform and instruct mankind and these evils will be excluded.”<sup>1</sup> Accordingly these zealous followers of revolutionary doctrines and revolutionary ideals proceeded to “ inform and instruct mankind ” by placing before them glowing descriptions of the ideal state of nature celebrated by Rousseau.<sup>2</sup> The denunciation of religious intolerance and intellectual tyranny by Voltaire found, in the writings of these poets and philosophers, echoes which reverberated throughout England.<sup>3</sup> Like Holbach, they painted to themselves, the miseries of royal courts—a light, cruel and vain world, completely cut off from the natural inlets of just sentiment,—the abode of vice and dissoluteness.<sup>4</sup>

When, therefore, the revolution swept over France in all its fury, it appeared to thinkers of this group, to be a just vindication of the natural rights and liberties of man.<sup>5</sup> It was the dawn of the Millennium—a time when not favoured spots alone, but the entire universe appeared to wear the beauty of promise. Inert natures were, now, roused and lively natures rapt away. The meagre, stale and forbidding ways of custom were, all at once, transformed ; they were, no longer, dry and uninspiring, but took the attraction of a country in romance.<sup>6</sup> Slumbering freedom was, now, roused from her stupor of centuries ; and that giant Frenzy, uprooting empires as by a whirlwind, was bursting the triple chains of Tyranny and Oppression.<sup>7</sup> Disdaining national partialities, and rejoicing in every triumph of liberty over arbitrary power, the enthusiastic advocates of revolutionary principles voted addresses congratulating the French National Assembly on “ the revolution in that country

<sup>1</sup> Dr. Price, Sermon.

<sup>2</sup> Cf. Coleridge, *Religious Musings*.

<sup>3</sup> Coleridge, *Religious Musings* ; Shelley, *Queen Mab*.

<sup>4</sup> Wordsworth, *Prelude*, IX ; Shelley, *Q. Mab*.

<sup>5</sup> and <sup>6</sup> Wordsworth, the *Prelude*, IX.

<sup>7</sup> Coleridge, *Religious Musings*.

and the prospect it gave, to the two first kingdoms of the world, of a common participation in the blessings of civil and religious liberty.”<sup>1</sup> A whole nation was now “spurning at slavery and demanding liberty with an irresistible voice”<sup>2</sup> and they saw in this upheaval indications of still greater achievements in the future, of “the ardour of liberty catching and spreading, and a general amendment showing itself in human affairs;” so that “the dominion of kings might be changed for the dominion of laws and the dominion of priests give way to the dominion of reason and conscience.”<sup>3</sup>

The splendid outburst of hope and enthusiasm which welcomed the French Revolution and its theories into England was succeeded, with-  
The Reaction.
in a very short time, by despondency and disillusionment. The excesses and consequent failure of the revolutionary movement, its substitution of the frenzy of the mob for the tyranny of the aristocrats, made its most enthusiastic supporters pause and ponder. Waking from the trance of theory, they found their highest ideals and fondest aspirations plunged into mire by the very persons whom they had regarded as the champions of liberty. France lay at the feet of factions which were as intolerant of freedom as the proudest aristocrat or the most orthodox abbé of the ‘*Ancien Régime*’; and the nation itself seemed to have burst its manacles only to wear heavier chains, gilded by the name, without the substance, of liberty. So disgusted were they with the course of events in that unfortunate country, that Liberty, Virtue and Reason lost all their charms; and these disillusioned idealists now heard them with “the same indifference and contempt that a cynic who marries a jilt or a termagant listens to the rhapsodies of lovers.”<sup>4</sup>

<sup>1</sup> Address to the National Assembly, Society for Commemorating the Revolution in Great Britain.

<sup>2</sup> and <sup>3</sup> Dr. Price, Sermon.

<sup>4</sup> Hazlitt, Spirit of the Age.

Meanwhile the "Reign of Terror" dominated the thoughts of every class of the community; it destroyed the mental balance no less of Pitt and his colleagues than of the Church-and-King mobs. Priestley, Hardy and other advocates of freedom and progress fell victims to mob violence. Proclamations were issued, the Militia called out, and methods reminiscent of the Star Chamber introduced to punish political suspects. Even respectable men turned spies and informers against their friends from a sense of public duty. Judges lost all sense of equity in the administration of justice and juries, in their eagerness for convicting the accused, refused to take the trouble even of hearing the case for the Crown.<sup>1</sup> The ideals and aspirations of these youthful revolutionary thinkers were thus changed into bitterness and pessimism; their dawn suddenly revealed itself as dull twilight. "The passions roused by the Terror arrested the progress of liberal movements in England. The alarms and glories of the struggles with Napoleon buried them in oblivion."

The age in which Shelley lived was thus marked by a distinct anti-revolutionary tendency. The  
 Shelley's early life. disillusionment of Wordsworth, Southey, and Coleridge, on the one hand, no less than the bitter diatribes of Burke on the other, created an atmosphere absolutely hostile to all ideals of reform and change. Nor were his environment and early associations more encouraging. His father was a gruff old Englishman belonging to the conservative school of thought, who grew "fierce as a lion"<sup>2</sup> at everything which went against his conventional ideals on society, religion or politics. His mother and sisters, though they were always deeply affectionate towards him, lived in an altogether different world too far away from the idealistic atmosphere in which the poet himself moved, to feel any sympathy for his

Brailsford, Shelley, Godwin and their Circle.

<sup>1</sup> Shelley, Letter, April 29, 1811.

thoughts and aspirations. Syon House Academy where he first received his education was the typical school for the sons of English gentlemen, presided over by a Scotch Dominie of "rather liberal views ;" <sup>1</sup> while Eton, whither Shelley next went, was remarkable more for its orthodoxy than for liberalism.<sup>2</sup> In spite, however, of these anti-revolutionary surroundings, Shelley, from his early youth, became thoroughly saturated with revolutionary thoughts and revolutionary ideals. He would always stand up boldly against organised tyranny of every type and refuse obedience to its unreasonable demands. At Eton he was the most daring revolter against the higher authorities of the school.<sup>3</sup> Even at this early age (1810), Godwin's 'Political Justice' had cast its spell over the mind of the poet. It seemed to afford him a new Creed, a new Basis for Morality, and a new Vision of Society. With all the earnestness of a zealous convert, Shelley, forthwith, began to propagate its heterodox principles amongst his associates and fellow-students.<sup>4</sup> He was, consequently, twice expelled and twice called back through the influence of his father.<sup>5</sup>

In Oxford, the anti-religious ideas which he had imbibed from the writings of the revolutionary school of thought, gathered a definite shape. God became to him a vague word, "which has been, and which will continue to be, the source of numberless errors unless it be erased from the nomenclature of Philosophy."<sup>6</sup> As early as 1811, the youthful poet published "The Necessity of Atheism"—a pamphlet which he sent to all prominent people connected with the University, requesting them to communicate to the author

<sup>1</sup> Hogg, *Life of Shelley*, I, 22.

<sup>2</sup> Dowden, *Life of Shelley*.

<sup>3</sup> Medwin, *Life of Shelley*.

<sup>4</sup> Shelley, Letter to Hogg (Jan. 16, 1811).

<sup>5</sup> Dr. Peck does not believe in the truth of this statement made by Shelley. *Vide Life and Works of Shelley*, Dr. Peck, Vol. I.

<sup>6</sup> Shelley, Letter to Hogg (Jan. 3, 1811).

any defect in its reasoning or any refutation of its arguments. The whole world of Oxford was astir ; friends remonstrated and the authorities threatened the direst punishments, but Shelley remained obdurate, firmly maintaining his inherent right to think and express his thoughts freely. Necessary action had to be taken and the culprit was expelled for "contumacy in refusing to answer questions put to him and for declining to disavow the obnoxious pamphlet." <sup>1</sup>

Sir Timothy was greatly surprised at the behaviour of his son at the University. He could not condone "the criminal opinions and improper acts" of the poet, much less sympathise with them. Out of regard for the duty which he owed to his own reputation and that of his children he could only dissociate himself from his son and "leave him to the punishment and misery that belongs to the wicked pursuit of an opinion so diabolical," <sup>2</sup> unless he abandoned his error and abjured his faith. Nor did the poet, in his distress, find any sympathy or assistance from other members of his family. His mother and sisters, though they felt tenderly towards him, could not, for obvious reasons, avow their sentiments. On the contrary, they and his erstwhile fiancée, Harriet Grove, all recoiled from him as an atheist who was, in their opinion, a terrible being, a veritable worshipper of Satan. Yet, Shelley, isolated though he was from his friends, relations and acquaintances, did not quail before the gloomy prospect of the future. Unflinching in his faith, the young enthusiast, undaunted by the adverse circumstances in the midst of which he found himself, still believed that "Religion and its establishments, no less than Politics and its establishments" were formidable obstacles to virtue ; and he still "longed for the day when men may dare to live in accordance with Nature and Reason." <sup>3</sup> Meantime his studies progressed apace ;

<sup>1</sup> Dowden, *Life of Shelley*.

<sup>2</sup> Sir T. Shelley, *Letter to Shelley* (April 5, 1811).

<sup>3</sup> Shelley, *Letter to Eliz. Hitchener* (June 25, 1811).

Voltaire's articles in the 'Dictionnaire Philosophique,'<sup>1</sup> Godwin's 'Political Justice,'<sup>2</sup> Helvetius,<sup>3</sup> all served to strengthen his faith in the revolutionary ideals of Society and Religion.

The thinker who now exerted the greatest influence on the mind of Shelley was William Godwin. His reverence for Godwin. Posterity has treated Godwin very ungratefully ; and his figure now appears to us hazy and blurred by the passage of time. But during the latter part of the eighteenth century, he "blazed forth as the sun in the firmament of reputation."<sup>4</sup> He was the High-Priest of the Revolution, the guide and mentor of its votaries. His 'Political Justice' was their scripture from which could be gathered irrefutable arguments in support of their dreams and ideals. It summed up, as it were, the eternal and imperishable truths embodied in the political and intellectual movements of France ; it seemed to raise man from the region of passion and sordidness to the purest atmosphere of the Human Intellect. "No work," says Hazlitt, "gave such a blow to the philosophical mind of the country, as the celebrated 'Enquiry Concerning Political Justice.'"<sup>5</sup> Wordsworth was, for some time at least, his enthusiastic disciple ; while Coleridge considered him as one whose holy guidance had soothed his stormy soul in the midst of its distress.<sup>6</sup> Shelley himself had, as early as 1810, read his book which opened to his mind fresh and more extensive views. It materially influenced his character and he "rose from its perusal, a wiser and better man."<sup>7</sup> The letters that he wrote to his friends about this time are full of appreciative references to

<sup>1</sup> Shelley, Letters (April 24, 1811, May 2, 1811).

<sup>2</sup> Shelley, Letter to Godwin (Jan. 10, 1812).

<sup>3</sup> Shelley, Letter (May 17, 1811).

<sup>4</sup> Hazlitt, Spirit of the Age.

<sup>5</sup> Hazlitt, *ibid.*

<sup>6</sup> For Wordsworth, *vide* Legouis : Coleridge, Ode to Godwin.

<sup>7</sup> Shelley, Letter to Godwin (Jan. 10, 1812).

Godwin and his opinions.<sup>1</sup> His whole scheme of life was now based on the principles advocated by his master. His resolution to live according to reason and nature, his hatred of the tyranny inherent in human society,<sup>2</sup> and his belief in the close relationship between politics and morality,<sup>3</sup> were, to a very large extent, coloured by the writings of Godwin. He looked at the thinkers and philosophers of the French Revolution mainly through the eyes of his master whom he considered to be a great personality always "planning the welfare of mankind."<sup>4</sup> He was, therefore, profoundly moved to learn that Godwin was still alive; and immediately hastened to lay bare his soul before the Sage of Skinner Street in a letter remarkable for its simplicity and truthfulness. The feelings of reverence with which he always regarded Godwin, and his joy at the discovery that he was alive, find a free and frank expression in every line of the letter. "From the earliest period of my knowledge of his principles," writes Shelley, "I have ardently desired to share, on the footing of intimacy, that intellect which I have delighted to contemplate in its emanations. Considering, then, these feelings, you will not be surprised at the inconceivable emotions with which I have learnt your existence and your dwelling." For "I had felt regret that the glory of your being had passed from the earth of ours and had enrolled your name in the list of the honourable dead."<sup>5</sup>

Godwin, however, did not feel any such "inconceivable emotions" when he received the eulogy of Shelley. Cold and intellectual by nature and constitution, his answers to the enthusiastic epistles of the poet were characteristic. He felt, indeed, an earnest and deep interest in the welfare of his newly found disciple, but was cautious enough to warn him

<sup>1</sup> Cf. Shelley, Letters to Hogg (Jan. 16 and May 13, 1811).

<sup>2</sup> Shelley, Letter to Eliz. Hitchener (Dec. 26, 1811).

<sup>3</sup> Shelley, Letter to Eliz. Hitchener (Jan. 7, 1812).

<sup>4</sup> and <sup>5</sup> Shelley, Letter to Godwin (Jan. 3, 1812).

that being a scholar, he ought not to have an intolerable itch to become a teacher.<sup>1</sup> The name of Godwin, nevertheless excited in Shelley feelings of reverence and admiration;<sup>2</sup> for he was a luminary too dazzling for the darkness which surrounded him and his friendship was an acquisition "more valuable than the gifts of princes."<sup>3</sup> In the letters which Shelley received from Godwin, he seemed to discern a firm and elevated mind, matured by the experience of ages through which this "veteran of persecution and independence" had to pass during his eventful career; and what struck the poet most, was the fact that in spite of the atmosphere of gloom and despair which surrounded Godwin, he remained unchanged. "I have," the poet enthusiastically informs Miss Hitchener, "no soul-chilling alteration to record of his character, the unmoderated enthusiasm of philanthropy still characterises him. He preserves those principles of extensive and independent action which alone can give energy and vigour...The age of the body has not induced the age of the soul: tho' his shell is mouldering, the spirit within seems, in no wise, to participate in the decay."<sup>4</sup> So high was the opinion of Shelley regarding the exalted personality of his master that he could not even dream of the time when Godwin would become closely associated with him. He had, in fact, never dared to hope that this great prophet of the revolution, who had gained his love and confidence by his principles and opinions, whose philosophy of life he had accepted with the fullest approbation of his reason, and whose very existence had become sacred to him, should condescend to be, not only his "friend and adviser," but "the personal exciter and strengthener of his virtuous habits" as well. The offer of Godwin's friendship came to him "almost

<sup>1</sup> Godwin to Shelley (quoted in Shelley's letter).

<sup>2</sup> and <sup>3</sup> Shelley, Letter to Godwin (Jan. 3, 1812).

<sup>4</sup> Shelley, Letter to Elizabeth Hitchener (Jan. 20, 1812). Cf. *Revolt of Islam*, Dedication, St. 13.



as a ray of second existence.”<sup>1</sup> Even when the poet differed from the philosopher he was Humility personified. “Guide thou,” cries he, in the fulness of his heart, “and direct me, for when you reprove me, Reason speaks and I acquiesce in her decisions.”<sup>2</sup>

It was, therefore, only natural that the political and social ideals which Godwin advocated should profoundly influence the mind of Shelley who came into intimate contact with them during the most formative period of his life. In fact, the principles of Godwinian philosophy left a very deep impression on the mind of his ardent disciple and went a great way towards moulding his views and aspirations. Not only the Fundamental Principles on which Godwin’s philosophy was based, but even the Methods which he recommended for the attainment of perfection formed, as it were, the basis on which the earlier theories of the poet were constructed. They were the stuff that Shelley’s dreams were made on.

## 2

### *The Fundamental Principles.*

Godwin was, by birth and education, a man of independent spirit. At the approach of the French Revolution, he and his associates, Holcroft, Gerrald, and others fell under the spell of its enthusiasm and became ardent supporters of the revolutionary creed. They took a very prominent part in the proceedings of the numerous Associations which were, at that time, growing up in support of these ideals. When the years of repression commenced, Godwin keenly felt its lash ; one by one, his friends dropped out, either to serve their terms of imprisonment in the convict settlements of Botany Bay, or to

Godwin and Political Justice.

<sup>1</sup> Shelley, Letter to Godwin (Jan. 16, 1812).

<sup>2</sup> Shelley, Letter to Godwin (March 8, 1812).

end their lives in misery and exile. His brightest hopes and fondest aspirations seemed to be frustrated for ever; the atrocities of the Terror in France and the cruel wars between that infant Republic and the banded monarchs of Europe, all seemed to shake his belief in the ideals and principles of progress. Pessimism cast a gloom over the whole atmosphere of thought and action. Ardent believers in the movement became disillusioned and recanted their former convictions.

Yet, in the midst of these adverse circumstances, Godwin remained steadfast in his faith. The dreary prospect of the future could not make him flinch an iota from his cherished ideals. He always was, and still remained, an uncompromising foe to all forms of organised coercion. Only, the apparent failure of his dreams made him all the more alert in his investigation of truth, all the more eager to establish his principles on the broadest basis of equity and justice. The anti-revolutionary propaganda could not touch him nor could threats of persecution make any impression on his mind. The people of England might be "assiduously excited to declare their loyalty and mark every man as obnoxious who was not ready to sign the Shibboleth of the Constitution."<sup>1</sup> Money might be raised by voluntary subscription to persecute the social and political heretics and the authority of the Government might combine with the resentment of individuals to oppress them.<sup>2</sup> But Godwin was not, in the least, daunted; they were mere "accidents," unforeseen indeed, but unable to produce any alteration in his designs.<sup>3</sup> For it is the "property of truth to be fearless and to prove victorious over all adversaries" and no great degree of fortitude is required to "look with indifference upon the false fires of the moment and to foresee the calm period of Reason which will succeed."<sup>4</sup> Unmoved, therefore, by the bitterest persecutions of independent thought, the author calmly sat down to answer the

<sup>1</sup> Political Justice, Preface.

Political Justice, Preface.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

challenge of Burke and other anti-revolutionary thinkers. His Political Justice is a fearless exposition of the social and political ideals of the French Revolution, remarkable for its thoroughness and industry. Here he sought to expose the injustice inherent in the very structure of society as it was then constituted and demolish the different types of arguments which were being offered to prop up its tottering strength.

Godwin was profoundly influenced by the French Philosophers of his age. He had derived considerable instruction from them, especially from the works of <sup>His Theory of the</sup> Mind. D'Holbach, Helvetius and Rousseau;<sup>1</sup> and it was from them that he derived his theories regarding the fundamental principles of the human mind.<sup>2</sup> The orthodox conception of innate ideas and instincts governing the actions of men and developing their character are summarily rejected as "superfluous, unsatisfactory and absurd;" they are pernicious inasmuch as they bar the progress of enquiry by interposing mysterious and occult causes, incapable of analysis and investigation. On the contrary, "the actions and dispositions of mankind are the offspring of circumstances and events and not of any original determinations which they bring into the world." The human mind itself, is an intelligent agent, guided by motives and prospects presented to the understanding—not by causes of which we have no proper cognisance and can form no adequate idea.<sup>3</sup>

In his anxiety to disprove what he regarded as prejudices fettering the independent spirit of man, Godwin went to the other extreme, and became an out-and-out follower of the Associationist School of Philosophy. The mind is nothing else but "a faculty of perception." Our knowledge and ideas are all based upon our experience. We begin our life with a "*tabula rasa*" and coming into contact with

<sup>1</sup> Political Justice, Preface.

<sup>2</sup> Ibid, I, IV

<sup>3</sup> Ibid, I, IV.

the external world receive impressions which are stored up in our memory and combined into associated groups of ideas. Thus we gain our knowledge, our wisdom, in fact, everything that distinguishes us as rational beings.<sup>1</sup> Not only so, the human understanding and the human will are very intimately connected; and the "great stream of our voluntary actions essentially depends, not upon the direct impulses of sense, but upon the decisions of the understanding."<sup>2</sup> This is the corner-stone of all his speculations, the basis of all his dreams.

Unlike Godwin, there had, always, been in the background of Shelley's mind a tendency towards idealistic thought which was greatly strengthened by his study of Plato during the early days of his youth.<sup>3</sup> So long as he was under the influence of this latent idealism, Shelley

Shelley's conception  
of the Mind.

could not ignore the innate and the instinctive in human nature. He had to admit their existence and their function in the economy of life and the development of personality. He accepted "the line of distinction" that is generally drawn between "the instinctive and the rational motives of action;" the former include "congeniality, sympathy, and unaccountable attractions of the intellect" which are absolutely outside human power to control or direct and reck of no considerations, utilitarian or otherwise. Reason stands powerless before them. We may "plainly foresee how these instinctive motives act independently of all questions of self-interest and even in violent contradiction thereto; our judgment may disapprove, yet, perforce, we cannot take any pains to obviate them."<sup>4</sup>

In the company of his political and social associates, however, the poet lived in an entirely different world of ideas. He had read Godwin and risen a "wiser man;" and one of the

\* <sup>1</sup> Political Justice, I, V.

\* <sup>2</sup> *Ibid*, V, IV.

\* <sup>3</sup> Hogg, Life of Shelley, Vol. I.

\* <sup>4</sup> Shelley, Letter to Hogg (Jan. 23, 1811).

signs of this increased wisdom was, perhaps, his unquestioning acceptance of the Associationist School of Psychology. "Locke now governs all his thoughts and ideas regarding the human mind. He *"proves* that there are no innate ideas, that, in consequence, there can be no innate speculative or practical principles." All ideas are, therefore, derived from the senses, "originating from some sensual excitation." This has been, Shelley asserts, proved by "induction too clear to admit of rational objection."<sup>1</sup> Again: "the non-existence of innate ideas is proved by Locke; he challenges any one to find out an idea which is innate. This is conclusive."<sup>2</sup> Equally conclusive was the victory over Shelley's mind. It was not for nothing that he had placed himself under the guidance of that Great Oracle. His self-surrender was complete; he now adopts the shibboleths of Godwinian Philosophy and propagates its principles with the zeal and earnestness of a new convert.

There are no innate ideas in the human mind—nay more, thought itself is a bye-product of material elements. Like the materialistic school of philosophers—those to whom, according to Shelley, we are "indebted for the most stupendous discoveries in the physical science"—the poet is absolutely convinced that "intelligence is the mere result of certain combinations among the particles of its object."<sup>3</sup> The mind has no independent existence of its own; its powers "increase and fade with those of the body and even accommodate themselves to the transitory changes of our physical nature."<sup>3</sup> Sleep suspends many of our mental faculties; madness and idiocy destroy the most excellent and delicate of them, while drunkenness and disease derange them either permanently or temporarily. Old age withers our intellect and youth strengthens it. Is it not, therefore, probable that "our intellectual operations are entirely dependent on the organs of sense,"<sup>3</sup>

<sup>1</sup> Cf. Shelley, Letters to Eliz. Hitchener (June 11, 1811, also Aug. 19, 1811)

<sup>2</sup> Shelley, Letter to Eliz. Hitchener (July 19, 1811).

<sup>3</sup> Shelley, On a Future State.

and "what we call thought is not an actual being but no more than the relation between certain parts of that infinitely varied mass, of which the rest of the universe is composed?"<sup>1</sup> Far from being dissatisfied with this materialistic conception of mind, Shelley considers it to be the only rational view possible and proudly exclaims—"By considering all knowledge as bounded by perception, whose operations may be indefinitely combined, we arrive at a conception of nature inexpressibly more magnificent, simple and true than accords with the ordinary systems of complicated and partial consideration." It is a theory, at once, synthetic and comprehensive, perfectly adequate to explain all mental phenomena not excluding even the subtlest analysis of its modifications and parts.<sup>2</sup>

Yet, he could not wholly ignore the intuitive elements of our mind. Though convinced of its entire dependence on matter, Shelley was constrained to admit that perception alone cannot explain self-consciousness. The existence of other minds may be known to us through perception and inference based upon "a periodical recurrence of masses of ideas which our voluntary determinations have no power to circumscribe or arrest;" but the consciousness of our own existence cannot be so accounted for. We are immediately aware of our own existence, our own personality, and our own activities; our knowledge in this particular aspect, is intuitive and not inferential.<sup>3</sup>

Nor could the poet ever forget his own personal experiences of intuitive truths. In his childhood while he was still a student, he had been profoundly influenced by a sudden revelation of what was to be the future goal of his life as a thinker and a man. He had, always, been haunted by

Shelley, *On a Future State*.

Shelley, *Speculations on Metaphysics, The Mind*.

Shelley, *Speculations on Metaphysics, The Mind*.

thoughts of great deeds and well did he remember the hour which, to quote his own words,

“Burst

My spirit's sleep; a fresh May-dawn it was,  
When I walked forth in the glittering grass,  
And wept I knew not why: until there rose  
From the near school-room, voices, that, alas!  
Were but an echo from the world of woes”<sup>1</sup>—

and instinctively there arose in his mind a solemn resolution—

“I will be wise,

And just, and free, and mild, if in me lies  
Such power, for I grow weary to behold  
The selfish and the strong still tyrannise  
Without reproach or check.”<sup>2</sup>

He worships at the shrine of Intellectual Beauty—a Spirit who recks of no intellectual activities of his mind, but inspires him at moments of deep intuitional insight. It moves with an inconstant wing among men and visits

“with inconstant glance

Each human heart and countenance.”<sup>3</sup>

As the poet passes onward musing deeply on the lot of life, her shadow falls suddenly upon the mystic thinker, and he shrieks and clasps his hands in ecstasy.<sup>3</sup>

Such experiences were sure to strengthen Shelley's belief in intuition and the doctrine of innate ideas. During the latter part of his life, his veneration for Greek Philosophy, especially Plato, brought about a significant change in his opinions. The materialistic interpretation of mental activities which the poet had imbibed from his associates of the revolutionary school and which had, so long, been colouring his

<sup>1</sup> Revolt of Islam., Dedication, St. III.

<sup>2</sup> *Ibid.*, St. IV.

<sup>3</sup> Hymn to Intellectual Beauty.

speculations on morals and philosophy, could no longer satisfy him. The mind is no longer a *tabula rasa* for external impressions; far less an effect of material forces. "Each individual, on the contrary, has a peculiar frame of mind which, whilst the features of the great mass of his actions remain uniform, impresses the minuter elements with its peculiar hues."<sup>1</sup> The external aspects of our conduct may be entirely governed by the "general representation of the past feelings of mankind,.....as it exists in government, religion and domestic habits," but internally all is conducted otherwise. The efficiency, the essence, the vitality of actions derives its colour from what is, in no way, contributed to, from any external source.<sup>2</sup> A man is, in this respect, like a plant—he may be "cankered, or distorted, or inflated" by his environments, even as a plant is, by the soil in which it springs; but he will, none the less, retain those qualities which essentially divide him from all others. Not only so, in the abysmal depths of his personality the poet often seems to hear "echoes from the ante-natal world," echoes which transform his entire existence by their inspiration.<sup>3</sup> Love, or Asia, must be guided by the intuitive urgings of the spirit within, before she can bring about the redemption of man. She must follow the receding voice of echoes, of instinctive promptings of the human mind to the very depths of knowledge and existence before she succeeds in liberating Humanity from the tyranny of existing society. It is not by the exercise of reason alone, nor by the mere analysis of experience that man will be perfected, but by descending into the depths of reality—

"Through the veil and the bar,  
Of things which seem and are  
Even to the steps of the remotest throne,"

<sup>1</sup> Shelley, *Speculation on Morals*, II.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Epypsychidion*.



where the appearances of the world cannot deceive nor their diversity obscure the spirit within, but—

“There is One pervading, One alone.”<sup>1</sup>

It is this direct and intuitive experience of the spirit within, which reveals the inner significance of the universe and overthrows the age-long despotism of customs and traditions.

In fact, such was the idealistic trend of Shelley's mind that, though under the influence of the revolutionary school of philosophy he had, in his early youth, developed materialistic tendencies of thought, even the all-powerful intellect of Godwin could not captivate him for any great length of time. After a short period of enthusiastic discipleship, the poet reverted to his original idealism and came to recognise in man not only Intellect and Reason, but Intuition and Innate Ideas as well. Man is a being of complex personality and high aspirations, catching, at moments of inspiration, echoes of the all-pervading Spirit of Beauty in the universe and disclaiming alliance with transience and decay.<sup>2</sup> His thoughts wander through eternity and his efforts direct themselves towards the distant goal of Perfection.

The second fundamental principle of Godwin's theory follows very naturally from his rejection of innate ideas. There being no innate ideas in the human mind nor any instinctive principles in the human personality, the merits and defects of man's character are not due to causes beyond our control. We can, by changing the environments and attendant circumstances, bring about a corresponding change, salutary or otherwise, in the human character itself. The present miserable condition of man is entirely due to ignorance. Remove the causes of this

Godwin's Theory  
of Education.

<sup>1</sup> *Prometheus Unbound*, II, iii, 55-60, 80.

<sup>2</sup> *Shelley, On Life*.

ignorance or miscalculation and the effects will disappear. Let the cobwebs of "systematic delusions and half-discovered clandestine truths" be scattered away and a nobler race of man will arise, whose unclouded intellect and unprejudiced mind will create the earth anew. Injustice and intolerance will cease to oppress and a benevolent system of society will govern all.<sup>1</sup> The surest way, therefore, of improving the condition of mankind is, according to Godwin, Education—not as it is commonly understood but used in its most comprehensive sense, "including every incident that produces an idea in the mind and can give birth to a train of reflections."<sup>2</sup>

Shelley had, in the same manner as Godwin,<sup>3</sup> bitterly felt the disadvantages of an uncongenial system of education. His experiences at Eton and Oxford had opened his eyes to the urgency of reform in that direction. He had, he himself confesses, "derived little benefit or injury from artificial education" and had "no tutor or adviser from whose lessons and suggestions he had not recoiled with disgust."<sup>4</sup> When, therefore, the poet, under the sovereign influence of Godwin, came to believe that there are no innate or instinctive elements in the human nature, he was naturally convinced that it was possible to improve man's character by introducing a better and more suitable system of education. Man was a creature of circumstances: change his environments and his character will be changed. "The stuff which the soul is made of, must be in every one the same," and an "extended system of rational and moral unprejudiced education" will certainly render each individual "capable of experiencing that degree of happiness to which each ought to aspire."<sup>5</sup> For, was not the mind *the creation* of education? And did it not assume varied appearances "in proportion to the character imposed upon it" by circumstances and intention? On this principle, Shelley, like all

<sup>1</sup> and <sup>2</sup> Godwin, *Political Justice*, I, iv. <sup>3</sup> Cf. Godwin, *On the Education of Princes* (*Political Justice*).

<sup>4</sup> Shelley, *Letter to Godwin* (Jan. 16, 1812..). <sup>5</sup> Shelley, *Letter to Hogg* (Jan. 12, 1811).

contemporary thinkers of the revolutionary school, based his hopes for the future redemption of man. However depraved or fallen human beings might have been in his own age, they were capable of being improved and regenerated. Divest every event, which leaves its impress upon character, of "its improper tendency, and evil is annihilated."<sup>1</sup> Education, in consequence, determines character and leads man to progress or degeneracy in accordance with its nature.

Shelley's conception of education was, however, widely different from that of Godwin. In *Political Justice*, education is regarded as the illumination of the intellect. The human reason is an omnipotent force, which alone can redeem man. It has to be liberated from the bondage of external institutions and conventions of society to be fully effective. Nay more, the rich storehouse of human experience in the form of history must be opened up to its view. The glory of Greece and Rome and of other great nations of the world must inspire and strengthen Reason before it can regenerate human society. Shelley was not blind to the important part that Reason plays in the development of society and the redemption of man. His hero receives guidance and stimulation from History. Joyously does Laon proclaim to the world how

"With deathless minds which leave where they have passed  
A path of light, my soul communion knew;  
Till from that glorious intercourse, at last  
As from a mine of magic store, I drew  
Words which were weapons."<sup>2</sup>

Godwin had also emphatically asserted that opinion is the only bond which can perpetuate the slavery of mankind. "In reality the chains fall off, of themselves, when the magic of opinion is dissolved,"<sup>3</sup> i.e., "when a great majority of any

<sup>1</sup> Shelley, Letter to Eliz. Hitchener (Dec. 11, 1811).

<sup>2</sup> Revolt of Islam, II, xx.

<sup>3</sup> Godwin, *Political Justice*, I, vi.

society are persuaded to secure any benefit to themselves." The poet held similar views regarding the redemption of man during the earlier part of his poetical career. From "the records of their youthful state," and "the lore of bards and sages old," the reformer should, according to him, "collect language to unfold truth to his countrymen;"<sup>1</sup> and when these doctrines of human power are scattered among his fellow-beings, they are sure to

" ... ... aspire to more  
Than they have ever gained or ever lost of yore." <sup>2</sup>

Parents teach them to their children who are, no longer, blind; the young men are roused into action and bind themselves with vows of faith and constancy, while maidens gather a warmer zeal and a nobler hope from the inspiring messages that they hear.

" And every bosom was rapt and shook  
Like autumn's myriad leaves in one swol'n mountain brook." <sup>3</sup>

Nor are the tyrants blind to the potency and strength of this newly-found zeal and determination of the down-trodden multitude; on the contrary, they tremble

" At voices which are heard about the streets,  
The ministers of Fraud can scarce dissemble  
The lies of their own heart; but when one meets  
Another at the shrine, he inly weets,  
Though he says nothing, that the truth is known." <sup>3</sup>

The effects of such an educative propaganda are instantaneous; all at once the whole nation seems to be roused from its torpor of centuries. Men are no longer blind, inert and

<sup>1</sup> Revolt of Islam, IV, xii.

<sup>2</sup> *Ibid*, IV, xiii.

<sup>3</sup> *Ibid*, IV, xiv.

dead. Their hearts are now swept by high hopes and mighty aspirations—

“ .....fearless love, and the pure law  
Of mild equality and peace, succeeds  
To faiths which long have held the world in awe  
Bloody, false and cold.”<sup>1</sup>

Shelley was, however, equally conscious of the composite nature of the human personality. He soon freed himself from the materialistic illusions regarding the character of the human mind. He had, by this time, come to recognise that man is not intellect alone, but a being in whom the understanding, the imagination and the senses are harmoniously blended together.<sup>2</sup> To ignore any one aspect is to carry away an entirely false idea of his complex nature. He could not, consequently, accept Godwin's ideals of education. Education could no longer mean the illumination of the intellect alone, but the proper development of the emotions and impulses as well. *The Revolt of Islam* is thus a picture, or a succession of pictures “illustrating the growth and progress of the individual mind aspiring after excellence and devoted to the love of mankind; its influence in *refining* and making pure the most daring and uncommon *impulses of the imagination, the understanding and the senses.*”<sup>3</sup> He definitely rejects Godwin's narrow conception of education and enunciates a wider and more rational view which was gradually supplanting the older ideals.

In *Prometheus Unbound* the same views find a fuller and more poetic expression. Underneath the exquisitely beautiful symbolism of the poet are discernible suggestions of what Shelley regarded as the true ideal of education in the widest sense of the term. Unlike Godwin's Reason, Asia does not,

<sup>1</sup> *Revolt of Islam*, IV, xv.

<sup>2</sup> *Cf. Revolt of Islam*, Preface.

<sup>3</sup> *Ibid.*

all at once, bring about, by a single touch of her wand as it were, the salvation of mankind. She has to pass through a series of educative experiences before she can redeem Humanity. Even after her powers have been fully developed through proper training, Love cannot regenerate man by her own influence alone. It is only when Asia has an intuitive cognition of the reality behind appearances and becomes united to Demogorgon, the Spirit of Inscrutable Fate and Intuitive Knowledge, *i.e.*, when the emotions and the human understanding are equally and fully developed, educated and harmoniously blended together, that man becomes perfect.

Education, according to Godwin, is the dissemination of truth. For truth is omnipotent. It dissipates error and prejudice, expels weakness and vice and replaces them by nobler and more benevolent principles. When adequately communicated and brought home to the convictions of the understanding, it creates a revolution in the opinions of men, "infallibly producing a corresponding effect upon their conduct." As there is no limit to the progress of knowledge, man is assuredly susceptible of perpetual improvement. "Every perfection or excellence which human beings are competent to conceive, human beings, unless in cases that are palpably and unequivocally excluded by the structure of their frame, are competent to attain." Nor should we unduly limit the extent of human perfection; for, in many cases, "the lines which appear to prescribe a term to our efforts will, like the mists that arise from a lake, retire farther and farther, the more closely we endeavour to approach them."<sup>1</sup>

Like Condorcet, Godwin was an ardent believer in the progress of man. He did not regard the development of the arts and sciences as the cause of human degeneracy. On the contrary, the past history of man, his marvellous attainments

<sup>1</sup>. Political Justice, I, v.

in all the departments of life filled him with a new hope for the future of Humanity. The legend of the "Noble Savage" did not appeal to his imagination: and he could not fail to contrast "man in his original state, with man as we, at present, behold him." "Let us survey the earth covered with the labours of man, ..... with all the wonders of painting, poetry, eloquence, and philosophy" and remember the great changes he has undergone as an intellectual being; are we not, then, justified in inferring "the probability of improvements not less essential to be realised in future?"<sup>1</sup> In his case the closest deductions of abstract reason coincided with his fondest aspirations; and he could, without the slightest misgiving, participate in the dreams of the Millennium characteristic of his age. It was speculative ideas of this type which brought him solace in the midst of the darkest days of reaction, and upheld his faith in despair. He could well bear testimony to the heroic declaration of Gerrald, calmly awaiting the sentence of death—"Moral light is as irresistible as the physical. All attempts to impede its progress are vain. It will roll rapidly along, and as well may tyrants imagine that by placing their feet upon the earth they can stop its diurnal motion, as that they shall be able, by efforts the most virulent and pertinacious, to extinguish the light of reason and philosophy which, happily for mankind, is everywhere spreading around us."<sup>2</sup>

Deeply interested as he was in the most recent discoveries of science,<sup>3</sup> Shelley, like his master, could not reconcile himself to the belief of a 'Golden Age' in the past. The immense progress made by scientific investigations in his own age could not but leave an indelible impression on his mind. Man is fallen, says the Bible. But how is he fallen? asks

Shelley's theory of the Perfectibility of the Human Nature.

<sup>1</sup> Godwin, *Political Justice*, I, viii.

<sup>2</sup> Brailsford, Shelley, Godwin and their Circle.

<sup>3</sup> Cf. Dowden, *Life of Shelly*.

Shelley. "You find a thing imperfect and diminutive, but you cannot infer that it had degenerated to this state, without first proving that it had anteriorly existed in a perfect state."<sup>1</sup> Is there any ground for this widespread belief? What is its basis?—A mere ancient tradition recorded in the Scriptures, a tradition, which cannot be tested by reason but must be taken on trust. Men may seek to prove that perfection is unattainable; they may produce apparently irrefutable arguments in favour of their contention and ridicule it as impossible. Yet, even acknowledging the cogency of such arguments, we have to admit that "perfection, however unattainable it may now appear to us, is the ultimate goal towards which society must move. It demands an unremitting tendency towards itself; and the nearer man approaches this point, the happier will he be."<sup>2</sup>

His ardent faith in the perfectibility of the human nature bears him up in the midst of despondency and despair; and he becomes indignant at any the slightest step which he thinks would impede its progress. The Glorious Revolution of 1688 could not appeal to him. "Was that period," asks the poet, "glorious, when, with a presumption only equalled by their stupidity, and a short-sightedness incommensurable but with the blindest egotism, Parliament affected to pass an Act delivering themselves and their posterity to the remotest period of time, to Mary and William and their posterity?"<sup>3</sup> And his blood boiled to think that the "Defenders of Liberty" had sunk so low as to "attempt to arrest the perfectibility of human nature."<sup>3</sup> Not that he was blind to the weaknesses and shortcomings of men around him. On the contrary, he was fully conscious of "the overwhelming torrent of depravity which education unlooses." But he was equally conscious of human kindness and goodwill and

<sup>1</sup> Shelley, Letter to Eliz. Hitchener (June 25, 1811).

<sup>2</sup> Shelley, Letter to Eliz. Hitchener (July 25, 1811).

<sup>3</sup> Shelley, Letter to Eliz. Hitchener (Feb. 27, 1812).



emphatically asserted that true "education or impressions intentionally induced upon the mind" would foster and "encourage the good in man and eradicate the evil."

The pursuit of human perfection was, henceforth, the ruling passion of his life. It determined all his future activities. He goes over to Ireland ostensibly to help the Irish patriots in their struggle for religious and political freedom; but there was, all the time, existing in the background of his mind, a desire to "sink the question of present grievance in the more general and remote consideration of a highly perfectible state of society." He simply wanted "to embrace the present opportunity for attempting to forward the accomplishment of that event."<sup>1</sup> He wrote "Queen Mab" not so much for the pleasure of self-expression as to shadow forth, however faintly, his vision of the human Millennium, intending it to be "by anticipation, a picture of the manners, simplicity and delights of a perfect state of society, tho' still earthly."<sup>2</sup> His other poems had also the same end in view. Shelley had, indeed, a very healthy aversion to didactic poetry and refused to "dedicate his poetical compositions solely to the direct enforcement of reform."<sup>3</sup> For the poet was well aware, that "nothing can be equally well expressed in prose that is not tedious and supererogatory in verse."<sup>4</sup> Yet, he was always inspired by a sense of the poet's high mission as "the unacknowledged legislator of the world," and sought to elevate his fellow-men by placing before them "beautiful idealisms of moral excellence." Shelley was thoroughly convinced of the beneficial influence of this type of poetry on human personality. It is only when the highly refined imagination of poetical readers is thus inspired that the reasoned principles of moral conduct acquire a strength and potency for the

<sup>1</sup> Shelley, Letter to Godwin (March 18, 1812).

<sup>2</sup> Shelley, Letter to Eliz. Hitchener (Dec. 11, 1811).

<sup>3</sup> and <sup>4</sup> Prometheus Unbound, Preface.

regeneration of human society; otherwise they are mere "seeds cast upon the highway of life which the unconscious passenger tramples into dust."<sup>1</sup> His *Revolt of Islam* is, accordingly, "a succession of pictures illustrating the growth and progress of an individual mind aspiring after excellence." It is "a story of Human passions in its most universal character," written, not for the sake of the story itself, nor for the clash of contending emotions which it describes, but, "in the view of kindling within the bosom of his readers a virtuous enthusiasm for those doctrines of liberty and justice, that faith and hope in something good which neither violence, nor misrepresentation, nor prejudice can ever totally extinguish among mankind."<sup>2</sup> In fact, he wanted to place before his readers a vision of perfection slowly and painfully attained by man, so that they may, in that age of reaction, gather new faith and more ardent aspirations from his impassioned utterances.

In his poetical compositions he always sought to excite in men "a generous impulse, an ardent thirst for excellence and an interest, profound and strong, such as belong to no meaner desires."<sup>3</sup> The same passionate sympathy for suffering, the same ardent love for man and desire for perfection characterise *Prometheus Unbound*. The vision of fulfilment and progress which it reveals, the drama of spiritual evolution which it unfolds before our eyes, the transfiguration of the entire universe which marks its great consummation, and the jubilant rejoicings of the world of nature and man which commemorate its achievements,—all are harmoniously blended together into a grand symphony, impressive in its appeal to what is good and noble in the human personality. In words burning with deep spiritual significance, the poet appeals to man to rise above the petty meannesses of everyday life into the highest regions of spiritual

<sup>1</sup> *Prometheus Unbound*, Preface.

<sup>2</sup> and <sup>3</sup> *Revolt of Islam*, Preface.

existence. He inspires his readers with a dream of perfection, of perfection attainable through love and sympathy, through intuitive experience of reality,

“Not in Utopia, sub-terranean fields,  
Or some secreted Island, heaven knows where!  
But in this very world, which is the world  
Of all of us,—the place where in the end  
We find our happiness, or not at all.”

Godwin lays special emphasis upon the withering influence of Positive Institutions. They were responsible for the depravity of human nature and stand in the way of human progress. It is the conservative inertia of modern society which stifles all efforts of man for self-expression and self-realisation. The social fabric is not a passive thing; on the contrary, its influence over the opinions, and through opinions over the character of men is one of the most significant facts of life. Government is not, as Locke said, purely negative, seldom affecting the condition of its subjects; it is an all-pervading power which creates their environments and forms their opinions. It affects the teacher and the taught, the educated and the ignorant alike. “Men who live in a state of equality, or that approaches equality, will be frank, ingenuous, and intrepid in their carriage; while those who inhabit where a great disparity of ranks has prevailed will be distinguished by coldness, irresoluteness, timidity and caution.”<sup>1</sup> Example and early habits plant these sentiments in the mind too deeply to be eradicated. So long as “parents and teachers in general shall fall under the established rule, it is clear that politics and the modes of government will educate and infect us all.”<sup>2</sup>

Moreover these institutions, intimately associated as they are with ideas of rewards and punishments, dictate to

<sup>1</sup> Political Justice, I, iv.

<sup>2</sup> Ibid, I, iv.

individuals their future course of action. Men cease to have a strong personality and become, to all intents and purposes, inert, lifeless, and mechanical. "An influence like this," Godwin significantly points out, "is inconsistent with all generous magnanimity of spirit, all ardent impartiality in the discovery of truth, and all inflexible perseverance in its assertion. Countries exposed to the perpetual interference of decrees instead of arguments exhibit within their boundaries the mere phantoms of men."<sup>1</sup> Government of any type suspends the elasticity and progress of the human mind; it poisons us before we can resist or even suspect its malignity. Depriving us of strength and independence, it is, even in its best state, an evil. Men should be wise enough to govern themselves without the intervention of any compulsory restraint; we should have as little of government as the general peace of human society will permit.<sup>2</sup> "Above all," reiterates Godwin, "we should not forget that Government abstractedly taken...is an usurpation upon the private judgment and individual conscience of mankind; and that, however we may be obliged to admit it as a necessary evil for the present, it behoves us, as friends of reason and the human species, to admit as little of it as possible and carefully to observe whether, in consequence of the gradual illumination of the human mind, that little may not, hereafter, be diminished."<sup>3</sup>

In fact, Godwin was an individualist by principle and nature as well. He could not tolerate any interference with the free exercise of the individual understanding and was interested only with the progress of men as individuals. He had little love for that great abstraction of the French Revolution—Man. Humanity, Human Perfection, the Millennium were all perfectly meaningless unless they had particular reference to the development of *men*. What is Society, Com-

Political Justice, II, vi.

<sup>2</sup> *Ibid*, III, vii.

*Ibid*, V, i.

munity, or even Humanity itself except an aggregate of its members? And what is all improvement worth if it does not contribute to their happiness? But even for the proper development of *men*, some form of organisation is necessary; not however large states with their insatiable greed for self-aggrandisement and their tendency to crush their opponents. The political thought of his age idealised the City States of ancient Greece and Rome. Rousseau had recommended such small states in his discourses and Helvétius sought to divide the Republic of France into a large number of small Federated Commonwealths, "each so small that public opinion and the fear of shame would act powerfully within it." Godwin was also in favour of similar Parish States where no coercion save and except the influence of the censure and the approbation of neighbours and associates will be necessary to promote virtue among their inhabitants. Such small governments will not unnecessarily tyrannise over men nor will they oppose the progress of the human mind. He is not very definite as to whether these states are meant as merely temporary governments existing only so long as man does not completely free himself from the prejudices, conventions and errors of civilised society; or as types of the perfect forms of government without any of the disadvantages and imperfections generally associated with it.<sup>1</sup>

Equally emphatic was Shelley in his criticism of the Positive Institutions that he found prevalent in Society. Like Godwin he was absolutely sure that the miseries of mankind are mainly due to the influence they exert upon the character of human beings. "Prejudice and superstition" alone are inspired by "the system upon which at present the world acts"—a system which constrains men to believe as incontrovertible facts all that they are told.<sup>2</sup> It fetters a reasonable

Shelley on Positive  
Institutions.

<sup>1</sup> Political Justice, III, vii; also I, vi.

<sup>2</sup> Shelley, Letter to Hogg (Dec. 23, 1810).

mind with its own traditional beliefs and ideals; and can never tolerate the least sign of independent speculation. It is against this withering influence of tradition or, as Shelley calls it, "long established opinion" that the poet wages an incessant war. He cannot accept the principle that one should always comply with this long established opinion expressed in the laws and institutions of his own country. For then "virtue does not exist; or Proteus-like so changes its appearance with every varying climate ....that each petty river, each chain of mountains, and arm of the sea, constitutes a line of distinction between two different kinds of duties to both of which it is requisite that virtue adopts itself."<sup>1</sup> Yet such is the power of this irrational idea, so strong is the opinion of the world in its favour that the majority of men are compelled to bow down before these gods of the populace. A rebel from his childhood, Shelley shuddered to think of the effects of this system upon the minds of men; and he speaks very bitterly of this "tremendous Gregory—the opinion of the world, its myriads of hateful champions, and its ten thousands of votaries"<sup>2</sup> compulsorily plunged into its depths. It is a veritable empire of terror which is established by religion, by monarchy its prototype, by aristocracy and similar other positive institutions that were, at that time, crushing the physical, intellectual and moral independence of man.<sup>3</sup>

We do not, however, find in the speculations of Shelley on this question, that attitude of cold dispassionate criticism which characterises the works of Godwin. On the contrary, it is all aglow with passion and resentment. Time and again we seem to hear the impassioned tones of the French Encyclopaedists<sup>4</sup> or catch echoes of the sardonic laughter of Voltaire. And well we might; for while criticising the Church or the State, Shelley was not a mere detached philosopher or critic, he was, above all, a man terribly oppressed

<sup>1</sup> and <sup>2</sup> Shelley, Letters to Hogg (May 13 & 18, 1811).

<sup>3</sup> Shelley, Letter to Hitchener (July 28, 1811).

<sup>4</sup> Cf. Voltaire's Articles on Atheism, Christianity and Superstition in the Dictionary of Philosophy and Shelley, Queen Mab, VII, ll. 85 *et seq.*; also VIII, and Revolt of Islam Bk. V.

by these institutions. He had been personally injured by them and his indignation is all the more bitter as his wounds are fresh. "Oh, I burn with impatience," exclaims the poet, "for the moment of Christianity's dissolution; it has injured me. I swear on the altar of perjured love to revenge myself on the hated cause of the effect, which even now I can scarcely help deploring. Indeed I think it is to the benefit of Society to destroy the opinion which can annihilate the dearest of ties."<sup>1</sup> He was very deeply read in the literature of the revolutionary school of thought in France and his bitter denunciations of Christianity and monarchy, his diatribes against civilisation as such and his openly expressed fondness for a simple life led in the midst of nature and in strict accordance with her dictates—are all more or less inspired by Rousseau, Voltaire, D'Holbach and their followers.

In Shelley's denunciations of Property and Marriage, however, echoes of Godwin, his philosophy and even his vocabulary, abound. Godwin, looking at the development of property and the consequent unequal distribution of wealth from the stand-point of a speculative thinker powerfully influenced by revolutionary currents of thought regarded accumulated wealth as usurpation, pure and simple.<sup>2</sup> "Inheritance was a still greater injustice. "It is enough," exclaimed the philosopher, "to maintain men in their usurpation during the terms of their life. It is the most extravagant fiction, which would enlarge the empire of the proprietor beyond its natural existence, and enable him to dispose of events when he is himself no longer in the world."<sup>3</sup> Not that Godwin was blind to the value of wealth and property for the better organisation of human society. He was conscious of the fact that some such stimulus as the acquisition of property was necessary for human progress. "It is

<sup>1</sup> Shelley, Letter to Hogg (December 20, 1810).

<sup>2</sup> and <sup>3</sup> Godwin, *Political Justice* (1798), Vol. II, p. 44.

<sup>3</sup> and <sup>4</sup> "Enquirer", *Essay*, ii (quoted by Shelley).

<sup>5</sup> *Political Justice*.

perhaps necessary," says he, "that a period of monopoly and oppression should subsist before a period of cultivated equality could subsist. Savages, perhaps, would never have been excited to the discovery of truth and the invention of art but by the narrow motives which such a period affords."<sup>1</sup> But with the passage of time man must have made sufficient progress, both intellectual and spiritual, as to rise above all mean and narrow motives. "Surely, after the savage state has ceased, and men have set out in the glorious career of discovery and invention, monopoly and oppression cannot be necessary to prevent them from returning to a state of barbarism."<sup>2</sup>

Even if we suppose that it is right for one man to possess a greater portion of property than another, whether as the fruit of his industry or the inheritance of his ancestors, "justice," as Godwin pointed out, "obliges him to regard this property as a trust and calls upon him maturely to consider in what manner it may be employed for the increase of liberty, knowledge and virtue."<sup>3</sup> Remembering, therefore, that wealth is a power usurped by the few to compel the many to labour for their benefit, and that its possession makes a man pusillanimous and wicked, he should hold his inheritance in trust and use it for the amelioration of society. "The thing really to be desired is, consequently, the removing as much as possible such arbitrary distinction, and leaving to talents and virtue the field of exertion unimpaired." The ideal state of society Godwin believed to be a state where all men are equal. Each works only for the satisfaction of his daily needs and has ample leisure for the development of his intellectual powers. "The commodities that substantially contribute to the subsistence of the human species form a very short catalogue: they demand from us but a slender portion of industry. If these only

<sup>1</sup> & <sup>2</sup> Godwin, "Enquirer,"—Essay ii (quoted by Shelley).

<sup>3</sup> Political Justice.



were produced and sufficiently produced, the species of man would be continued."

Again :

"If the labour necessarily required to produce them were equally divided among the poor and, still more, among all, each man's share of labour would be light, and his portion of leisure would be ample....Those hours which are not required for the production of the necessities of life may be devoted to the cultivation of the understanding, the enlarging of our stock of knowledge, the refining our taste and thus opening to us new and more exquisite sources of enjoyment."<sup>1</sup>

With Shelley, the admiring pupil of Godwin, "excessive wealth is a libel on its possessor."<sup>2</sup> Nature created men equal, it is society which has destroyed the original "parity" among them. Property and inequality is, thus, founded upon base falsehood<sup>3</sup> against which it is the duty of every reformer to wage incessant war. Not only so, wealth wields a very demoralising influence over its possessor; and the unhappy aristocrat "by an hereditary possession of a fortune, which, if divided would have very different effects, is, as it were, predestined to dissipation, ennui, self-reproach and, to crown the climax, a death-bed of despairing inutilty."<sup>4</sup> In his *Address to the Irish People* he developed the same idea. "Nature never intended that there should be such a thing as a poor man or a rich man. Being put in an unnatural situation, they can neither be happy so far as their situation is concerned. The poor man is born to obey the rich man, though they both came into the world equally helpless and equally naked. But the poor man does the rich no service by obeying him—the rich man does the poor no good by commanding him."<sup>5</sup>

<sup>1</sup> Godwin, *Enquirer*, Essay ii.

<sup>2</sup> Shelley, *Declaration of Rights*, Sec. 17.

<sup>3</sup> Shelley, *Philosophical View of Reform*.

<sup>4</sup> Shelley, *Letter to Elizabeth Hitchner*

<sup>5</sup> Shelley, *Address to the Irish People*.

(July 25, 1811).

Like Godwin, again, Shelley was firmly convinced of the fact that wealth was given to man not for mere enjoyment but as a sacred trust. The material resources which a man may possess are, according to the poet, "intrusted to his discretion" by the "consent of mankind."<sup>1</sup> It is, therefore, his first and foremost duty to employ, them in such a manner as to contribute his proper share to the improvement of the material and intellectual condition of his fellow-men. And although Shelley was fully aware of the failure of the Primitive Christians to establish the principles of equality<sup>2</sup> in their social life, he was not without hopes that every man would strive to annihilate, in proportion to his wisdom, "the unjust inequality of powers and conditions existing in the world, and accommodate the progress of equality to the progress of wisdom and of virtue among mankind."<sup>3</sup>

In fact, Shelley's theory on this matter was based upon other considerations as well. There is, according to him, no wealth but the labour of man. Not money nor the luxuries of life can enrich the world; they cannot add one single comfort to the human race. On the contrary, an excessive regard for money and "precious metals" has been, and will continue to be the bane of human society. It is in consequence of such considerations that "one man is enabled to heap to himself luxuries at the expense of the necessities of his neighbour; a system admirably fitted to produce all the varieties of disease and crime, which never fail to characterise the two extremes of opulence and penury."<sup>4</sup> Naturally he could not understand how "a speculator who employs a number of hands in the manufacture of articles avowedly destitute of use or subservient only to the unhallowed cravings of luxury and ostentation" can ever regard himself as benefiting thereby the labouring poor and promoting his country's prosperity.<sup>5</sup>

<sup>1</sup>, <sup>2</sup> & <sup>3</sup> Shelley, *Essay on Christianity*.

<sup>4</sup> & <sup>5</sup> Shelley, *Notes on Queen Mab*, V, 93-94.

The poet looked to England and found there a small minority living in ease and the rest earning their livelihood with toil and care. If these aristocrats who "possess resources of various degrees of immensities, were to permit these resources to be resolved into their original stock, that is, entirely to destroy it, if each earned his own living,—then...each would be happy and contented, and crime and the temptation to crime would scarcely exist."<sup>1</sup>

Like his master, Shelley was indignant at the wastage of human energy in modern society. Men labour not for food and raiment nor for "those comforts of civilisation without which civilised men are more miserable than the meanest savages," but for "pride of power, for the miserable isolation of pride, for the false pleasures of the hundredth part of society." "So long as," pointed out Shelley, "we conceive that a wanton expenditure of human labour, not for the necessities, not even for the luxuries of the mass of society, but for the egotism and ostentation of a few of its members, is defensible on the ground of public justice, so long we neglect to approximate to the redemption of the human race."<sup>2</sup>

He was equally conscious of the fact that leisure is absolutely necessary for moral and intellectual improvement and that society as constituted at present is injurious both to the rich and to the poor. It deprives the poor labouring classes of all opportunities for intellectual improvement by subjecting them to unnecessary labour while it enervates the aristocratic intelligentsia by a total absence of all physical efforts. Its members are, consequently, imperfect; they are but half men for, "he who is deficient in firm health or vigorous intellect is but half a man." An ideal state of society should combine both the advantages of labour and of leisure; the first being necessary for physical and the second for moral improvement.<sup>3</sup>

<sup>1</sup> Shelley, *Letters*, Vol. I, p. 94.    <sup>2</sup> & <sup>3</sup> Cf. Shelley, *Notes on Queen Mab*, V, 98-94.

These fundamental ideas of Shelley receive a fuller and more emphatic expression in his poems. In *Queen Mab* the poet lamented how—

“The harmony and happiness of man  
Yields to the wealth of nations; that which lifts  
His nature to the heaven of its pride,  
Is bartered for the poison of his soul;”<sup>1</sup>

and pointed out that wealth is

“The weight that drags to earth man’s towering hopes,  
Blighting all prospects but of selfish gain,  
Withering all passion but of slavish fear,  
Extinguishing all free and generous love  
Of enterprise and daring.”<sup>2</sup>

It

“Leaves nothing but the sordid lust of self,  
The grovelling hope of interest and gold,  
Unqualified, unmingled, unredeemed,  
Even by hypocrisy.”<sup>3</sup>

Under its withering influence men lose their manhood and become mere automata, “mere wheels of work,” “living pulleys of a dead machine,” their souls hardened against all hopes and aspirations, untroubled by any spark of Divinity.

Thus,

“Poverty and wealth with equal hand  
Scatter their withering curses, and unfold  
The doors of premature and violent death,  
To pining famine and full-fed disease,  
To all that shares the lot of human life,  
Which poisoned, body and soul, scarce drags the chain,  
That lengthens as it goes and clanks behind.”<sup>4</sup>

The ideal of a harmonious development of the physical and intellectual aspects of the human personality Shelley celebrated both in *Queen Mab* and *Prometheus Unbound*.

<sup>1</sup> V, 79-82.

<sup>2</sup> V, 83-87.

<sup>3</sup> V, 90-93.

<sup>4</sup> V, 46-52.

Man was no longer a mere "wheel of work" or a "living pulley of a dead machine," "hardened to hope and insensible to fear."<sup>1</sup> He was no longer overburdened by useless toil nor did he minister to the pride and false pleasures of his cruel master. On the contrary, he stood adorning

"This loveliest earth; with taintless body and mind;  
Blessed from his birth with all bland impulses  
Which gently in his noble bosom wake  
All kindly passions and all pure desires."<sup>2</sup>

Happiness and Science dawned upon him and carried him away with irresistible force. Peace cheered his mind and health renovated his frame. The inequalities of modern society were all eradicated; the social order with its injustice and cruelty lay mouldering in ruins while Man rose superior to the abject self-contempt and hypocrisy which erstwhile characterised him.<sup>3</sup> Nor did the poet forget to bestow upon Redeemed Humanity ample leisure wherein he might retire to his cave and develop his personality by coming into intimate contact with nature and art—searching his own unexhausted spirit for hidden thoughts of imperishable beauty and weaving out of them divine harmonies; catching in the depths of his own heart "echoes of the human world," of the "low voice of Love" and "dove-eyed pity's murmured pain;" or seeking to perpetuate in his own mind reflections of those lovely apparitions which are

".....the progeny immortal  
Of painting, sculpture, and rapt poesy  
And arts, though unimagined, yet to be."<sup>4</sup>

From his early life Shelley was profoundly influenced by Godwin's opinions on marriage. "A kind of ineffable sickening disgust," wrote the poet to Hogg as early as

<sup>1</sup> Shelley *Queen Mab*, V, 75.

<sup>2</sup> *Ibid*, VIII, 199-202.

<sup>3</sup> *Cf.* *Prometheus Unbound*, Act III, Sc. IV, ll, 130 *et. seq.*

<sup>4</sup> *Cf. Ibid*, Act III, Sc. III, ll. 35-56.

1811<sup>1</sup> "seizes my mind when I think of this most despotic, most unrequited fetter (*viz.*, marriage) which prejudice has forged upon mankind to confine its energies." For, has not Godwin said that "marriage is hateful, detestable"? It had become all the more hateful and detestable to Shelley by its association with religion which the youthful poet regarded as nothing better than superstition; and conscious though he might be of the fact, that human nature being what it is, a general reform was, in his age, practically impossible, the enthusiastic disciple of Godwin, none the less, readily welcomed anti-matrimonialism as a step towards reform. "Human nature taken in the mass, if we compare it with instances of individual virtue, is corrupt beyond all hope;—for *these*, laws are necessary; *these* are not men of honour; they are not capable of exaltations of virtue." Yet any step, however small, "for the obviation of the present evils is good, as it tends to produce that which, though impossible, yet, were it possible, would be desirable. On this plan do I recommend anti-matrimonialism."<sup>2</sup>

He was, however, fully alive to the strong citadel which the social organisation of the age had set up to defend itself from all attacks of rationalism and reform. Marriage was a fruit of this superstition and superstition must perish before it could fall. The first reformers would have to undergo great persecution; society is essentially conservative and any attempt to go against accepted opinions and long-established traditions is bound to have its natural reaction on the reformers as well as on the society in which they live. So when the poet married Harriet, consideration for "the disproportionate sacrifice which the female is called upon to make"<sup>3</sup> made him pause and reflect. The orthodox view on this matter might be wholly wrong and

<sup>1</sup> 12-5-1811.

<sup>2</sup> Shelley, Letter to Hogg (May 13, 1811).

<sup>3</sup> Shelley, Letter to Hogg (undated).

unjust, yet it would be "useless to attempt by singular examples to renovate the state of society, until reasoning has made so comprehensive a change as to emancipate the experimentalist from the resulting evils and the prejudice with which his opinions would be heard by the immense majority."<sup>1</sup>

But this did not mean that he had given up his original opinions on marriage; on the contrary, his poems and essays, and his whole life—all show a gradually hardening antipathy towards popular and traditionary views on matrimony. The despotism of the positive institutions, Shelley regretted, had invaded even the domestic hearth of man. "Law pretends to govern the indisciplinable wanderings of passion, to put fetters on the clearest deductions of reason, and by appeals to the will, to subdue the involuntary affections of our nature." Basing his views on an utilitarian interpretation of ethics, the poet pointed out that "if the worthiness of any action is to be estimated by the quantity of pleasurable sensation it is calculated to produce," then, surely, the marriage tie is sacred so long as it contributes to the mutual happiness of the parties concerned, and should be "naturally dissolved," when its evils preponderate over its benefits. A husband and wife should live together only so long as they love each other, they should cease to do so as soon as their affection fades away. Any law to the contrary which seeks to bind what nature has separated is morally wrong and as such should not be tolerated; "any law which should compel them (a married couple) to co-habitation for one moment after the decay of their affection, would be a most intolerable tyranny,"—a "vestige of semi-feudal savageness and imperfect civilisation." Such compulsory unions make hypocrites of the majority of men; and the result is

<sup>1</sup> Shelley, Letter to Eliz : Hitchener (Oct. 8, 1811).

that "persons of delicacy and virtue, unhappily united to one whom they find it impossible to love, spend the loveliest season of their life in unproductive efforts to appear otherwise than they are, for the sake of the feelings of their partners or the welfare of their mutual offspring;" while those of less generosity and refinement "openly avow their disappointment and linger out the remnant of the union, which only death can dissolve, in a state of incurable bickering and hostility."<sup>1</sup>

The poet, blinded by the glare of Godwinian ethics and Godwinian philosophy, failed to recognise the patent fact that the unit of society as it is, at present, constituted being the family, any opinion subversive of the permanence of domestic life strikes at the very root of the social organisation. He lacked the vision of a far-seeing reformer who preserves whatever adds to the stability of society and changes only those elements which retard its growth. Naturally in his ideal world despotic law could not stifle the impulses of the human heart and

"...that sweet bondage which is Freedom's self,  
And rivets with sensation's softest tie  
The kindred sympathies of human souls,  
Needed no fetters of tyrannic law :  
Those delicate and timid impulses  
In nature's primal modesty arose,  
And with undoubted confidence disclosed  
The growing longings of its dawning love."<sup>2</sup>

Nor was human love any longer needlessly restrained by

".....dull and selfish chastity,  
That virtue of the cheaply virtuous,  
Who pride themselves in senselessness and frost."<sup>3</sup>

<sup>1</sup> Note on Queen Mab, V, 179.

<sup>2</sup> Queen Mab, IX, 76-83. Cf. ll. 225 *et seq.*

<sup>3</sup> *Ibid.*, IX, 84-86.



In his own life also, he had the greatest admiration for her who, in the wintry solitude of his existence, came, breaking the rude chains of custom, to bestow on him the sweet companionship of her affections.

“ How beautiful and calm and free thou wert  
In thy young wisdom, when the mortal chain  
Of custom thou didst burst and rend in twain,  
And walked as free as light the clouds among,  
Which many an envious slave then breathed in vain  
From his dim dungeon...<sup>1</sup>

In *Rosalind and Helen* again, Shelley described the pernicious effects of loveless marriages. Compelled to marry a hard, selfish and covetous old man, Rosalind passed a life of constraint fulfilling her duties as a devoted wife,

“ With the stern step of vanquished will,  
Walking beneath the *night* of life,  
Whose hours extinguished, like slow rain  
Falling for ever, pain by pain,  
The very hope of death's dear rest.”<sup>2</sup>

Her heart was dispossessed of its natural life, and all delights became unreal shadows. When her husband died she sat “with hard and tearless eyes,” unable to weep beside his unlamented tomb, “wrapt in the mask of mourning weed.” As a contrast to the miserable condition of this unloved wife the poet gave us the picture of Helen who loved and united “all that in us was yet divided.” Lionel, the lover, was, like Shelley, a disciple of the revolutionary school of thought and did not accept the traditionary rites of marriage and

“ .....when he said, that many a rite,  
By men to bind but once provided,  
Could not be shared by him and me  
Or they would kill him in their glee,”<sup>3</sup>

<sup>1</sup> Dedication to the “ Revolt of Islam.”    <sup>2</sup> ll. 330-34. Cf. ll. 225 *et seq.*

<sup>3</sup> ll. 846-49.

the heart of Helen which was still under the influence of orthodox opinions shuddered for a while. Soon, however, she recovered courage and then laughing said—

“ We will have rites our faith to bind,  
But our church shall be the starry night,  
Our altar the grassy earth outspread,  
And our priest the muttering wind.” <sup>1</sup>

In spite of persecutions and sorrows, the life of this loving couple was one long dream of happiness. Such was the harmony between them that they lost their distinctive personalities and became one “soul of interwoven flame.” Touched by the fire of sacred love, each seemed to gain a new life in the midst of the cares and anxieties of their earthly existence. They awoke, as it were, into a

“ second birth  
In worlds diviner far than earth,” <sup>2</sup>

and when Lionel died, his companion did not sit with tearless and hard eyes but

“ .....fell, as the eagle on the plain  
Falls when life deserts her brain,  
And the mortal lightning is veiled again.” <sup>3</sup>

During the latter part of his poetical career, when Shelley fell under the influence of Plato, these ideas were further strengthened by the Platonic theory of love; and the result was that though Godwin receded from his original position Shelley clung to it more tenaciously than ever. Thirsting, as he always did, for an intimate communion with a spirit similar to himself, and seeking throughout the world a prototype of his own personality, the poet could not rest satisfied with

<sup>1</sup> ll. 851-54.

<sup>2</sup> ll. 980-81.

<sup>3</sup> ll. 1184-86.

one single companion of his soul. In *Epipsychidion* he frankly admitted

“ I never was attached to that great sect,  
Whose doctrine is, that each one should select  
Out of the crowd a mistress or a friend,  
And all the rest, though fair and wise, commend  
To cold oblivion, though it is in the code  
Of modern morals.....” <sup>1</sup>

and he seemed to echo his former words in *Queen Mab* when he described the misery which attends upon a strict adherence to the accepted theory of marriage; pointing out how such men have to go the dreariest and the longest journey of their life in the company of “one chained friend,” or “perhaps a jealous foe.” “True love,” the poet proceeded to express,

“ True love in this differs from gold or clay,  
That to divide is not to take away.” <sup>2</sup>

Instead of arguments or reason he was satisfied with poetical similes. Understanding grows bright by gazing on *many* truths; the light of imagination gathers its materials from the earth and the sky and from the depths of human fantasy, enlightening the world from a thousand prisms or mirrors, as it were. Why should not love act in a similar manner, gathering strength from *many* hearts and beautifying the universe from a thousand personalities? <sup>3</sup> Surely, narrow is

“ The heart that loves, the brain that contemplates,  
The life that wears, the spirit that creates  
One object and one form, and builds thereby  
A sepulchre for its eternity.” <sup>4</sup>

The inevitable reaction followed. Shelley struggled through the wintry forest of his life, vainly seeking for “the

<sup>1</sup> ll. 149-58.

<sup>3</sup> Cf. ll. 162-69.

<sup>2</sup> ll. 160-61.

<sup>4</sup> ll. 170-78.

soul out of his soul.”<sup>1</sup> He searched for his ideal of beauty in many mortal forms<sup>2</sup> and would often grasp his hands in ecstasy thinking that he had, at last, met the spirit of his visioned wanderings. But on every occasion he found that what he regarded to be real was a mere illusion. Even Emilia Viviani became “a part of him that was already dead;” and it was very late in life that he recognised that his attempts to find the vision of a poet’s imagination among the daughters of men<sup>3</sup> were destined to fail. Ixion-like he had been catching at clouds which immediately melted away into nothingness.

On the general question of government again, the poet’s opinions were profoundly influenced by  
 3. Government. Godwinian theories. Government by itself is an evil; “it is only the thoughtlessness and vices of men that make it a necessary evil.” Let men be but honest and virtuous, and government will, in the very nature of things, gradually decay and ultimately disappear. Virtue and wisdom enable man to develop his personality without any incentive from outside. He proceeds from an impulse of his own nature and fulfils an inner craving of his own soul. Government, which had, before, been a safeguard, now becomes a tyranny. Restraint merely impedes human progress. Yet government, in the present state of society, is necessary. Like Godwin, Shelley was conscious of the defects of the human nature; like him too, the poet was convinced that “so long as men continue foolish and vicious, so long will government, even such a government as that of England, continue necessary in order to prevent the crimes of bad men;”<sup>4</sup> and he almost echoed his master when he said that “society is produced by the wants and government by the wickedness of man.”<sup>5</sup> Man must reform himself first before he ventures

<sup>1</sup> ll. 249 et seq.

<sup>2</sup> l. 267.

<sup>3</sup> Letter to Gisborne.

<sup>4</sup> and <sup>5</sup> Shelley, Address to the Irish People.

to abolish or even change his government. He must become an ideally perfect being, before he can hope for a strictly individualistic form of society. Then alone will humanity be redeemed; then alone will virtue and wisdom conquer pain and vice. "No government will then be wanted but that of our neighbour's opinions."<sup>1</sup>

Shelley, however, gave us no clear idea of his views regarding the ideal form of society. In Godwin, we have some glimpses at least, of small parish states where opinion, rather than the fear of punishment, is supreme. But in the prose works of Shelley even such glimpses are denied us. The poet, in this respect, appears to be more thoroughgoing in his individualism than the philosopher. The individual is the centre of his speculations; and government, associations, all recede into the background. The state is for the individual and not the individual for the state. "Government has no rights; it is a delegation of several individuals for the purpose of securing their own. It is, therefore, just only so far as it exists by their consent, useful only so far as it operates to their well-being."<sup>2</sup>

The same idea permeates his poetical works from the *Queen Mab* to the *Prometheus Unbound*. The morning of love dawns slowly over the happy earth, the reality of heaven. Crime which had so long careered "unblushing and undisguising, bold and strong," and triumphed over all hopes, Falsehood which "tricked in virtue's attributes," had long "sanctified deeds of vice and woe;"—all vanish before the appearance of reason like mist before the sunrise. Avarice, cunning and pride no longer stamp

"The seal of gray deformity  
On all the mingling lineaments of time."

The moral world is completely freed from the fetters of tyrannic law; and the brand of God is effaced from the

<sup>1</sup> Shelley, Address to the Irish People.

<sup>2</sup> Shelley, Declaration of Rights.

universe. The proud monarch's palace which had, "through distant ages, long in pride," mocked "the faint groan of famine and the silent tear of penury" lies mouldering in ruins, a terrible warning to Despotism. Religion loses its withering influence and the works of faith and slavery perish miserably never to rise again.<sup>1</sup> Thus did Shelley sing—in triumphant faith—the dirge of political institutions.

He could not, however, give his readers equally definite ideas regarding the future state-organisation through which humanity fulfils itself. He spoke, indeed, of "meek-eyed courage," "the elevated will," "virtue, love and pleasure," which men, as individual beings, attain.<sup>2</sup> But how they organise themselves into communities or whether they organise themselves at all, are questions which he left unanswered. The future state of man, whether on earth or in heaven, is purely individualistic in nature. Laon and Cythna die on the pyre erected by fanaticism and they are, all at once, transported to a region of perfect loveliness, seated

".....on the waved and golden sand  
Of a clear pool, upon a bank o'ertwined  
With strange and star-bright flowers, which to the wind  
Breathed divine odour ; high above, was spread  
The enamelled heaven of trees of unknown kind,  
Whose moon-like blooms and bright fruit overlaid  
A shadow, which was light, upon the water's shade" <sup>3</sup>

—a scene of pastoral innocence, untroubled by thoughts or aspirations.

In the *Prometheus Unbound* Shelley painted a similar picture of the abolition of political institutions. Man is redeemed ; and behold ! "thrones are kingless and men walk one with other even as spirits do ;" hate, disdain, fear,

<sup>1</sup> Queen Mab, IX, ll. 45-135.

<sup>2</sup> Queen Mab, IX, ll. 45-135.

<sup>3</sup> Revolt of Islam, XII, xviii.

self-love and self-contempt no more crush out hope from the human heart.<sup>1</sup> "Thrones, altars, judgment-seats and prisons," "tomes of reasoned wrong, glozed on by ignorance" and "those foul shapes abhorred by God and man, strange, savage, ghostly, dark and execrable" which the panic-stricken nations had, so long, worshipped with hecatombs of blood, now moulder fast in their abandoned shrines.<sup>2</sup> The loathsome mask of hypocrisy and cant falls away from the face of things<sup>3</sup> and Man remains

"Scepterless, free, uncircumscribed, but *man*  
Equal, unclassed, tribeless and nationless,  
Exempt from awe, worship, degree, the king  
Over himself, just, gentle, wise ; but *man*." <sup>3</sup>

But humanity, when saved, no more lives in the active world of realisation. Man retires to a pastoral life of prettiness and ease. There, he lives in a cave, overgrown with trailing odorous plants and paved with veined emerald ; sitting at talking

".....of time and change  
As the world ebbs and flows." <sup>4</sup>

"We will," says Prometheus,

"We will entangle buds and flowers and beams  
Which twinkle on the fountain's brim and make  
Strange combinations out of common things." <sup>5</sup>

or else

".....search, with looks and words of love.  
For hidden thoughts, each lovelier than the last,  
Our unexhausted spirit. <sup>6</sup>

<sup>1</sup> Act III, Sc. IV, ll. 439-445.

<sup>2</sup> Act III, Sc. IV, ll. 488 *et seq.*

<sup>3</sup> Prometheus Unbound, Act III, Sc. IV, ll. 490-500, 501-4.

<sup>4</sup> *Ibid.*, Act III, Sc. IV, ll. 150-160.

<sup>5</sup> *Ibid.*, ll. 162-164.

<sup>6</sup> *Ibid.*, ll. 168-70.

and weave harmonies out of impressions received from the outside world." He leads a life of self-isolation, completely separated from his fellow-creatures, catching occasionally, in the midst of his earthly paradise of bucolic ease, dim and indefinite echoes of the human world,

" . . . . .which tell  
Of the low voice of love, almost unheard  
And dove-eyed pity's murmured pain and music  
Itself the echo of the heart, and all  
That tempers or improves man's life now free." <sup>1</sup>

Man's universe is now populated not by his 'brither man,' painfully struggling for redemption, but by visions and bright  
as created by his own imagination—

" . . . . .the progeny immortal  
Of painting, sculpture and rapt poesy  
And arts, tho' unimagined, yet to be." <sup>2</sup>

In this world of visions and shadowy creations, Shelley always lived and it is, therefore, only natural that we should not be able to discern in his poetry any clear idea regarding the forms of human communities in the future

Such vagueness of thought was mainly due to the atmosphere of revolutionary ideas in the midst of which Shelley lived. Embittered by the political inequalities, social injustice and religious intolerance prevalent in their day, the philosophers and thinkers of the French Revolution denounced Society altogether. "The sum of woes of the human race was not diminished...on the contrary, it was increased by its religion, its government, its opinions, in a word, by all institutions which it was led to adopt on the plea of ameliorating its lot."<sup>3</sup> Once these tyrannical organisations are destroyed, and their blighting influence removed, the innate nobility of man

<sup>1</sup> Prometheus Unbound, Act III, Sc. IV, ll. 177-81,

<sup>2</sup> *Ibid*, ll. 187-89.

<sup>3</sup> D'Holbach, *System de la Nature*,



will, at once, reassert itself and redeem mankind. Salvation, according to these apostles of 'equality, fraternity, and liberty,' could be obtained not by a slow and gradual process of development, but by a sudden overthrow of tyranny. The modern scientific theories of law and evolution had not, as yet, been discovered and the thinkers of that age could not conceive of Society as proceeding slowly along a path of systematic progress towards a distant goal of perfection. On the contrary, the complexities of life in modern society, its luxury and diletantism, its corruptions, both aesthetic and moral, made them turn away from culture and civilisation altogether. They contrasted the Society of their own age and its corruptions with "the picture of simplicity which prevailed in the earliest times." "The greater part of our ills are of our own making and we might have avoided them nearly all by adhering to that *simple, uniform and solitary* manner of life which nature prescribed."<sup>1</sup> Their ideal state, whenever attained, was, consequently, 'one of stagnant and empty enjoyment' rather than of continual advance through struggle. "The Happy Savage" (of Rousseau) wanders up and down the forests, "keeping a just mean between the indolence of the primitive man and the petulant activities of our own egoism"<sup>2</sup> and leads a life of ease and innocence.

The logical mind of Godwin could not rest satisfied with the vague speculations of these philosophers but the imaginative temperament of Shelley was immediately fascinated by their dreams. Godwin carried his theories to their logical conclusion and admitted the necessity of states, however small or parochial they might be. Shelley had, however, no firm grip on the concrete realities of human life and accepted with the enthusiasm of a convert their beautiful visions, creating out of them his own world of vague spiritual beings—a world, invertebrate and weak, of pastoral ease and

<sup>1</sup> Rousseau, A Discourse on the Arts and the Sciences.

<sup>2</sup> Rousseau, On Inequality.

luscious sentimentality. Man breaks away from the fetters of custom only to enmesh himself in the more alluring toils of sloth and indolence. In fact, the immaturity of Shelley's intellect, already discernible in the unassimilated ideas and ill-assorted dogmas of his earlier poetry becomes all the more prominent in his speculations on the future society of man.

Godwin was a thoroughgoing Utilitarian. Public good, according to him, was the only criterion for judging laws and institutions. Politics cannot be divorced from morality. At least Godwin could not accept any definition of the ethical science which loses sight of this most significant aspect.

Godwin on Politics  
and Morality.

Ethics should never confine itself merely to a consideration of the petty details of private life, ignoring altogether the close relationship which an individual bears to society; and political regulations should, without any exception, be regarded as parts of moral law. Virtue, both public and private, should proceed from kind and benevolent intentions and contribute to general happiness; while duty should consist in the "best possible application to the general benefit."<sup>1</sup> Man is, however, greatly hampered by the existence of arbitrary distinctions in Society and its tendency to coerce individual opinion into compliance with its conventional ideals. He cannot fully exercise his virtues; nor can he participate in the work of furthering the welfare of the community at large. For the regeneration of society and the redemption of man all such meaningless distinctions must be swept away; and organisations which thwart the free exercise of human virtues should be ruthlessly destroyed.

No less strong was Shelley in his insistence on the close association between politics and morality: and he could not

<sup>1</sup> Political Justice, II, iv.

understand how and on what principles people could differentiate between individual action and corporate activities, holding the former as within, and the latter as outside, the sphere of ethical judgments. Like Godwin, he considered it absolutely necessary that the old distinction between moral and political virtues should disappear once for all. "Southey says," wrote Shelley to Elizabeth Hitchner, "Expediency ought to be made the ground of politics but not of morals. I urged that the most fatal error that ever happened in the world was the separation of the political and the ethical sciences; that the former ought to be entirely regulated by the latter as whatever was a right criterion of action for an individual, must be for a society which was but an assemblage of individuals; that 'Politics were morals more comprehensibly enforced.'"<sup>1</sup>

It was, consequently, the poet's earnest desire to see ideals of morality firmly established in all departments of life. The foundations of morality, Shelley, fresh from his study of 'Political Justice,' could not but lay upon considerations of public utility. He desired to "establish, on a lasting basis, the happiness of mankind."<sup>2</sup> This was the standard according to which he judged his own actions as well as those of his contemporaries. Once convinced of the justice of his own conduct, nobody, not even Godwin himself, could make him give up the course of action he was pursuing. Godwin protested against his proposal for "An Association of Philanthropists for Ireland." "A preponderance of resulting good," remonstrated the poet in reply, "is imagined in every action. I certainly believe that the line of conduct I am now pursuing will produce a preponderance of good; when I get rid of that conviction my conduct will be changed."<sup>3</sup>

<sup>1</sup> and <sup>2</sup> Shelley, Letter to Elizabeth Hitchner (June 7, 1812).

<sup>3</sup> Shelley, Letter to Godwin.

Utility thenceforward became the standard by which the poet judged not only individual actions but corporate activities as well. An action is virtuous or moral only when "considered in all its accessories and consequences, it is fitted to produce the highest pleasure to the greatest number of sentient beings."<sup>1</sup> Society itself has for its object the happiness of its constituent parts—the individuals who compose the community. Its forms are perfect or imperfect "in proportion to the degree in which they promote this end."<sup>2</sup> Like Godwin, Shelley protested against the inequitable system prevalent in his own age. "It is not enough that one person or class of persons should enjoy the highest happiness while another is suffering a disproportionate degree of misery."<sup>3</sup> Like Godwin again, he held that human institutions should be thoroughly reconstructed and "the happiness produced by common efforts and preserved by the common care should be distributed according to the just claims of each individual."<sup>4</sup> For, the main principle underlying all human organisations "is not merely the quantity of happiness enjoyed by individuals but the mode in which it might be broadcasted." The poet's ideals of justice and virtue are, also considerably influenced by the speculations of his master. Virtue is the disposition of an individual towards "generating or diffusing happiness;"<sup>5</sup> while benevolence and justice—two principles which, according to Shelley, constitute virtue—have, for their basis, the same considerations of utility or the general happiness. They have always an unmistakable Godwinian ring about themselves. Benevolence (as in Godwin) is the "desire to be the author of good" and Justice means "an apprehension of the manner in which that good is to be done."<sup>7</sup>

<sup>-5</sup> Shelley, *Speculation on Morals* : Introduction.

<sup>1</sup> and <sup>7</sup> Shelley, *Speculation on Morals*, Chapter I.

As the poet proceeded to develop his theories, the implications of Utilitarianism were gradually revealed to his understanding. Like Mill, he came soon to differentiate not only between the degrees of pleasure and utility but between their types as well. Pleasure or good, in a general sense, means "that which a sensitive and intelligent being seeks." <sup>1</sup> It is of two different kinds—"one durable, universal and permanent; the other, transitory and particular." <sup>2</sup> Utility "may either express the means of producing the former or the latter." <sup>3</sup> The general body of utilitarian philosophers are often tempted to accept the narrower sense of the term and seem to identify their moral principle with what "banishes the importunity of the wants of our animal nature, the surrounding men with security of life, the dispersing of the grosser delusions of superstition, and the conciliating such a degree of mutual forbearance among them as may consist with the motives of personal advantage." <sup>4</sup> Shelley recognised the service which thinkers and reformers of this type render to society. In the economy of life they have their particular place and their appointed office. Their efforts for the reformation of society and the regeneration of man are of the highest value to humanity. Only, they should confine themselves and "their administration of the concerns of the inferior powers of our nature within the limits due to the superior ones." <sup>5</sup> Else, their principles, adequate in their proper element, will lead them into bewildering complications, when applied to questions lying beyond their province. Their ideals, totally divorced, as they are, from "the first principles which belong to the imagination," will, instead of reforming society and the state, assuredly drive them between the Scylla and Charybdis of anarchy, on the one hand, and despotism, on the other. Shelley was not blind to the pernicious effects of "an

<sup>1-5</sup> Shelley, *Defence of Poetry*.

unmitigated exercise of the calculating faculty.”<sup>1</sup> He fully recognised its benumbing influence which stifles the generous impulses of the human heart; and turned aside with disgust from this narrow interpretation of utility to its broader significance. “Whatever strengthens and purifies the affections, enlarges the imagination and adds spirit to the sense *is useful*.”<sup>2</sup> This is the higher type which appealed to the imaginative temperament of the poet and here he parted company with his master, Godwin.

Shelley thus gradually approached the idealistic standpoint of view in his ethical theories. Yet he was always conscious of the intimate relationship between Politics and morality. In his early youth he had proclaimed in unmistakable terms that “Expediency is inadmissible in morals; Politics are only sound when conducted on the principles of morality; they are, in fact, the morals of a nation.”<sup>3</sup> Again: “Law cannot make what is, in its nature, virtuous or innocent, to be criminal, any more than it can make what is criminal, to be innocent. Government cannot make a law; it can only pronounce that which was the law before its organisation; namely, the moral result of the imperishable relation of things.”<sup>4</sup> He had appealed to his Irish compatriots “never to transgress the rules of virtue and justice; for liberty and happiness are founded upon virtue and justice; if you destroy the one you destroy the other;”<sup>5</sup> and throughout his life, not for a single moment, did this much-maligned man deviate, for even an inch, from the path he had thus chalked out for himself. In fact, one of the inestimable services which this youthful poet rendered to the society which had spurned him was, to lead politics back from the “serbonian bog” of expediency to the haven of morality.

The whole atmosphere of his poetry is surcharged with the highest ethical principles, principles which, though

<sup>1</sup> and <sup>2</sup> Shelley, Defence of Poetry.

<sup>3</sup> and <sup>4</sup> Shelley, Declaration of Rights.

<sup>5</sup> Shelley, Address to the Irish People.

they apparently went against the accepted conventions of society, were, nevertheless, true, because they conformed to the ideals of truth and beauty which are enshrined in the hearts of all individual men. The emotions which palpitate through the *Revolt of Islam* or the *Prometheus Unbound*, revealed to his age a new world of moral ideals—a world of Justice and Benevolence, of virtuous enthusiasm and ardent faith. The righteous indignation that Shelley felt for the injustices and inequalities of modern civilisation and the resentment he so emphatically expressed in glowing passages both of his early poems like *Queen Mab* or the *Revolt of Islam* and his maturer works like the *Prometheus Unbound*, are not the effects of a mere pose but real and sincere, wrung painfully from the anguish of a poet's heart. No less lofty are the ideals he promulgated in his matchless verse—

“To suffer woes which Hope thinks infinite ;  
 To forgive wrongs darker than death or night ;  
 To defy power, which seems omnipotent ;  
 To love and hear ; to hope till Hope creates  
 From its own wreck the thing it contemplates ;  
 Neither to change, nor falter, nor repent ;  
 This like thy glory, Titan, is to be  
 Good, great and joyous, beautiful and free ;  
 This is alone life, joy, empire, and victory.<sup>1</sup>

Or is there a greater message of hope and a higher conception of the human personality than the following ?

“Man, one harmonious soul of many a soul,  
 Whose nature is its own divine control,  
 Where all things flow to all, as rivers to the sea ; ”

his familiar acts are beautiful through love and

“His will, with all mean passions, bad delights,  
 And selfish cares, its trembling satellites

<sup>1</sup> *Prometheus Unbound*, Act IV, ll. 570-78.

A spirit ill to guide, but mighty to obey,  
 Is as a tempest-winged ship whose helm  
 Love rules, through waves which dare not overwhelm  
 Forcing life's wildest shores to own its sovereign sway." <sup>1</sup>

This is Shelley, not surely "an ineffectual Angel beating the void with its luminous wings" but a potent spirit to raise and uplift the soul of man if he will but listen.

Godwin was firmly convinced that human nature is capable of unlimited improvement and set aside as untenable theories which militated against this view. In the choice of alternatives, his sovereign faith in human perfectibility always guided him. Free-will seemed to go against his cherished aspirations; *ergo*, it must be disproved and Necessity established in its place. "Man being a creature whose actions flow from the simplest principle, and who is governed by the apprehensions of his understanding, nothing further is requisite, but the improvement of his understanding to make him virtuous and happy;" <sup>2</sup> and Godwin proceeded, therefore, to prove that "if we form a just and complete view of all the circumstances in which a living or intelligent being is placed, we shall find that he could not, in any moment of his existence, have acted otherwise than he did." <sup>3</sup> The doctrine of Necessity, Godwin pointed out, is the basis of all attempts to evolve a science out of the multiplied phenomena of the mind. "How can we discover any general principles of Psychology or make intellect a topic of science unless mind, like matter, exhibits a constant conjunction of events, and affords a reasonable presumption to the necessary connection of those events?" <sup>4</sup> Moreover there can be no such thing as character at all unless it is possible to establish an essential connection between motives and

<sup>1</sup> Prometheus Unbound, Act IV, ll. 400 *et seq.*

<sup>2</sup> and <sup>3</sup> Political Justice, I, v.

<sup>4</sup> *Ibid*, IV, vii.



actions.<sup>1</sup> If man possesses "a faculty independent of his understanding and capable, from mere caprice, to resist the most powerful arguments, the best education and the most sedulous instruction might be of no use to him."<sup>2</sup> Such a freedom of will is, at best, a delusion and a snare; it is "man's bane and curse." The virtuous man "in proportion to his improvements, will, consequently, be under the influence of fixed and invariable principles."<sup>3</sup>

There was, in the personality of Shelley, a curious intermingling of contradictory elements. Though an ardent follower of the revolutionary school, his mind could not rest satisfied with its materialistic outlook on life, and he, throughout his poetical career, hankered for a belief in an all-pervasive spirit behind the universe. God may be a vague word, "the source of numberless errors;" and as such it may deserve to be "erased from the nomenclature of philosophy;" yet it is impossible not to believe in a "soul of the universe, an intelligent and necessarily beneficent, actuating principle." For the leaf of a tree "the meanest insect on which we trample, are, in themselves, arguments more conclusive than any which can be advanced that *some vast Intellect animates Infinity*."<sup>4</sup> The poet could never conceive of the universe as a mere conglomeration of atoms without any spark of intelligence to illuminate it; his mind was too much influenced by his idealistic temperament to do so.

But this Spirit of Nature is very hazy in its outlines. Sometimes it is Intellect (*cf.* the passage quoted above); on other occasions, it is "the spirit of universal, imperishable love."<sup>5</sup> Nature, Man, Society—all are parts of this stupendous whole, harmoniously blended together into a complex unity. The conception of necessity was, however, during the

<sup>1</sup> Political Justice, IV, vii.

<sup>2</sup> and <sup>3</sup> *Ibid.*

<sup>4</sup> Shelley, Letter to Hogg (Jan. 3, 1811).

<sup>5</sup> Shelley, Letter to Hogg (Jan. 12, 1811).

early period of Shelley's life, hardly discernible in his speculations. In his letters belonging to this period, man is a free agent, responsible for his own conduct, liable to punishments or deserving of rewards in strict accordance with the characteristic actions of his life. In explaining to his friends and acquaintances, his activities, the poet never represented himself and his associates as "mere vehicles or instruments" through which the one Universal Spirit of Nature works. Man has a personality of his own—a personality which he can, and therefore ought to, develop by an absolutely free exercise of his faculties. We discern the same tendency in his prose works as well. "Moral science.....is the doctrine of the voluntary actions of man,"<sup>1</sup> and we become cognisant of the existence of other minds only when we are conscious of "a periodical recurrence of masses of ideas which *our voluntary determinations* have, in one peculiar direction, no power to circumscribe or arrest."<sup>2</sup> The whole basis, therefore, of our knowledge of not-self lies in this limit set to *our* 'voluntary determinations' which must, otherwise, be free.

Yet from the earliest years of his life the poet was profoundly impressed by the unity of nature. Analogy and reason seemed to convince him that life is infinite; this universe is a "mass of infinite intelligence" animated by the soul—a "vivifying principle" not only of the "lowest link in the chain of existence" but also of the highest. It is an "immeasurable whole" of which individuals are mere constituent parts.<sup>3</sup> This conviction grew stronger in course of time and by 1814, the year in which *Queen Mab* was published, Shelley was fully converted to the Necessarian doctrines of his master. Godwin had written in his *Political Justice*—"He who affirms that all actions are necessary means that, if we form a just and complete view of the circumstances in which a living or

<sup>1</sup> Shelley, *Speculation on Morals*.

<sup>2</sup> Shelley, *Speculation on Metaphysics*.

<sup>3</sup> Shelley, *Letter to Elizabeth Hitchner* (Jan. 2, 1812).

intelligent being is placed, we shall find that he could not, at any moment of his existence, have acted otherwise than he has acted." The universe is "connected and cemented in all its parts; nothing in the boundless progress of things being capable of happening otherwise than it has actually happened." Human life and the human mind are not conglomerations of chance-connected elements. On the contrary, "in the life of every human being, there is a chain of causes—generated in that eternity which preceded his birth, and going on, in regular procession, through the whole period of his existence,—in consequence of which it was impossible for him to act, in any instance, otherwise than he has acted." In the notes to *Queen Mab*,<sup>1</sup> Shelley echoed the same ideas and the same sentiments. "He who asserts the doctrine of necessity means that, contemplating the events which compose the moral and the material universe, he beholds only an immense and uninterrupted chain of causes and effects, no one of which could occupy any other place than it does occupy or act in any other way than it does act." The universe is a well-ordered system in which each individual element occupies a distinct place and performs a distinct function. Accident and chance can have no existence; they are ephemeral; mere effects of ignorance. Nature is uniform in her operations; causes and effects, antecedents and consequents, are all "necessarily" connected.

From a superficial enquiry it might appear that Necessity does not exert any influence on the human mind. Man observing his own mental activities may, at first sight, find no "connection between motive and action." Yet like his preceptor Godwin, Shelley was fully aware that "were the doctrine of Necessity false, the human mind would, no longer, be a legitimate object of science."<sup>2</sup> Our knowledge of Psychology will not be precise and definite,

<sup>1</sup> and <sup>2</sup> Note on *Queen Mab*, VI, 196.

but vague and indeterminate. Moreover the most probable inducements and the clearest reasonings will lose the invariable influence they possess and, consequently, all efforts for the redemption of man through the enlightenment of the human intellect will be frustrated. Like Godwin, therefore, Shelley, in phrases strongly reminiscent of Political Justice, affirmed—"Every human being is irresistibly impelled to act precisely as he does act; *in the eternity which preceded his birth* a chain of causes was generated, which, operating under the name of motives, makes it impossible that any thought of his mind, or any action of his life should be otherwise than what it is."<sup>1</sup> Hence a science of Psychology is possible; we can not only know the nature and characteristics of our mental activities as they are, but can, after due consideration of the materials placed before us, infer its future course of action as well.<sup>2</sup> "The precise character and motives of any man on any occasion being given, the moral philosopher can predict his actions with as much certainty as the natural philosopher can predict the effects of the mixture of any particular chemical substances."<sup>3</sup>

Relying fully upon the invariable and essential connection between motive and action, we can, according to Shelley, use the knowledge thus gained for furthering the cause of humanity. We may so transform the environments in the midst of which men live as to exert a compelling influence on their mind. We may strengthen in them those motives which make for progress. Such motives, thus strengthened, become invincible; men cannot resist them even as they cannot resist or overcome a physical impossibility. Impelled as human beings always are by the strongest motive in their mind, they will, under these circumstances, become powerful instruments in the cause of the redemption of man and the regeneration of human society.

<sup>1-3</sup> Note on Queen Mab, VI, 198.

In fact, progress and reform is possible only if Necessity governs the universe both of mind and of matter as well. Then alone will it be possible for reformers to produce "beneficent moral effects by the application of moral causes which experience has shown to be effectual." <sup>1</sup>

Shelley was not, however, ignorant of the far-reaching consequences of Necessitarianism. He himself admitted that it "tends to introduce a great change into the established notions of morality and utterly destroy religion." <sup>2</sup> Reward and punishment lose their accepted significance and acquiring a Godwinian implication become mere instruments for the furtherance of his cause—motives whereby he can "procure the adoption or the abandonment of any given line of action." Moreover the Necessarian is the ideal man of Godwin—Intellect personified, enlightened by experience and untainted by feelings and impulses. He does not gratify his revenge under the pretence of satisfying justice ; he does not indulge in hatred or contempt. "Cowardice, curiosity, and inconsistency"—three evils, according to Shelley—do not assail him ; he has risen superior to the delusions of free-will and "looks with an elevated and dreadless composure upon the links of the universal chain as they pass before his eyes." <sup>3</sup>

Necessity influences theology no less than morality. Will is only a mode of the human mind ; moral qualities are such as only human beings can possess ; to attribute them to the principle of the universe is to annex to it, properties incompatible with any possible definition of its nature." <sup>4</sup> The Eternal Spirit thus becomes impersonal ; it is stripped of all its anthropomorphic attributes and no possible relationship can ever be established between itself and the human mind. God is "only an expression denoting the unknown cause of the known events which men perceive in the universe." <sup>5</sup> In course of time common people

<sup>1-5</sup> Note on Queen Mab, VI, 198.

mistake this metaphor for a real person and endow this word with human qualities. If, however, this all-pervasive principle be not an organic being, there can be no communion between itself and man, so that religion, which is only a "perception of the relation in which we stand to the principle of the universe"<sup>1</sup> becomes nugatory and vain.

"There is no God, no *creative deity*;" but "the hypothesis of a pervading spirit co-eternal with the world remains unshaken."<sup>2</sup> It is Necessity, the "mother of the world"<sup>3</sup> a spirit which is the

"Life of the interminable multitudes."

It is equally the

"Soul of those mighty spheres

Whose changeless paths through Heaven's deep silence lie ;"

and the

"Soul of the smallest being

The dwelling of whose life

Is one faint April sun-gleam."<sup>4</sup>

The different objects of nature, everything that this wide world contains, its powers, both spiritual and material, are the passive instruments of the "all-pervading principle, co-eternal with the universe."<sup>5</sup> Even Man himself with his vaunted worth and prowess is a mere agent fulfilling, unconsciously, its fixed and immutable laws.<sup>6</sup> Human passions and prejudices, the thoughts, fancies and imaginations of men are nothing but

".....a link

In the great chain of Nature."<sup>7</sup>

<sup>1</sup> Note on Queen Mab. VI, 198.

<sup>2</sup> Note on "There is no God," Queen Mab, VII, 13.

<sup>3</sup> Queen Mab, VI, 198.

<sup>4</sup> Cf. *Ibid.*, VI, 214-19.

<sup>5</sup> *Ibid.*, II, 106-7.

<sup>6</sup> Cf. Queen Mab, III, 226-232.

<sup>7</sup> *Ibid.*, III, 234, II, 238-43.

Man, Nature, and the entire Universe from the great planets that wheel in their own particular orbits to the smallest motes which people the sunbeams—all thus become parts of one stupendous whole; each has its distinct place to occupy and its distinct function to perform, so that, no atom

“..... fulfills

A vague or *unnecessitated* task,

Or acts but as it must and ought to act.” <sup>1</sup>

True to his theory that ‘ the unknown Cause of the known events which men perceive in the universe ’ cannot be an organic being possessing moral qualities and human attributes, Shelley represented this Spirit of Nature as perfectly non-human. It regards all its agents with an impartial eye and has neither “ human sense ” nor “ the human mind.” <sup>2</sup>  
“ The caprice,” said the poet,

“ The caprice

Of man’s weak will belongs no more to thee

Than do the changeful passions of his heart

To thy unvarying harmony.” <sup>3</sup>

There may be and there are ‘ from the depth of ages old ’ two powers who

“ .....o’er mortal things dominion hold

Ruling the world with divided lot

Immortal, all-pervading, manifold” <sup>4</sup>

two spirits, good and evil, struggling for mastery from eternity. Yet they have no ultimate authority of their own; they are themselves the two different aspects of the one great power far superior to them—

“ .....One comes behind

Who aye the future to the past will bind,—

<sup>1</sup> Queen Mab, VI, 171-2.

• *Ibid*, VI, 200-203,

<sup>2</sup> *Ibid*, VI, 218-19.

<sup>4</sup> Revolt of Islam, I, xxv,

*Necessity, whose sightless strength for ever  
 Evil with evil, good with good, must wind  
 In bands of union which no power may sever :''<sup>1</sup>*

Sightless strength—that is the real character of Necessity which both Godwin and Shelley celebrated. It is not creative ; but a principle which is immanent in the world and exists in it from eternity.

Yet even in *Queen Mab*, Shelley differed from the standpoint of view adopted by Godwin in very important aspects. The philosophical theory of Godwin sought to explain the constitution of the universe ; Godwin did not go any farther to create a Spirit out of his philosophical doctrines. He did not invest his ideas with personality. Shelley himself had warned his fellow-men against the vulgar mistake of taking a word or an idea for a real person ;<sup>2</sup> man should not create his God in his own image and after his likeness. But the poet violated his own principles when in *Queen Mab* he transformed the Theory of Necessity into a vast and all-pervading Spirit, thus investing an idea with personality however slight that might be. Once he did so, he could, no longer, stick to his original conception of a passive deity. Necessity is, no longer, a principle of "sightless strength", it is "active, steadfast and eternal."<sup>3</sup> It presides

".....in the storm of change that ceaselessly  
 Rolls round the eternal universe and shakes  
 Its undecaying battlements "<sup>4</sup>

and guides its manifold activities. If necessary it can blot out "with re-creating hand the blood-stained charter of all woe from the book of the earth."<sup>5</sup>

The original concept of a blind inactive spirit gradually changes itself into an active power capable of directing its

<sup>1</sup> *Revolt of Islam*, VI, 218-19.

<sup>2</sup> *Queen Mab*, Note on VI, 198.

<sup>3</sup> *Ibid*, VI, 199.

<sup>4</sup> *Ibid*, VI, 160-62.

<sup>5</sup> *Ibid*, VI, 55.



own efforts according to ideas of self-realisation consciously pursued ; and Necessity "the mother of the universe" soon becomes the Spirit of Intellectual Beauty which "consecrates with its hue" all the objects of the world and actively transforms them with its own radiance. It gives "grace and truth to life's unquiet dream" while its "plastic stress" is an active principle which "sweeps through the dull, dense, world" and "compels all new successions to the forms they wear,"<sup>1</sup> torturing "the *unwilling* dress that checks its flight to its own likeness."<sup>2</sup> Thus invested with qualities of will and intelligence, it consciously regulates, according to its intellectual nature, its efforts for self-realisation. Moreover the power which Shelley recognised as working in and through the universe has not only reason and will but feelings as well. It not only thinks and acts, but feels also. It is Asia, the Universal Spirit of Love, who, out of affection for Prometheus, the prototype of Man, ventures deep into the world of primal causes and struggling through a series of varied spiritual experiences, brings about the redemption of Humanity.<sup>3</sup>

The mental horizon of Shelley was, no longer, illuminated by Godwin's philosophy ; his theories and ideals were, no longer, moulded by his erstwhile master. On the contrary, the innate idealism of his temperament was gradually asserting itself. His mind was leaning away from Godwin, distinctly towards Plato.

## 3

*Methods of Attaining Perfection.*

Godwin had, in the light of his life's experience, formulated definite ideals regarding the redemption of man. His keen intelligence had very critically analysed the course of contemporary

Revolution as an  
instrument of perfec-  
tion.

<sup>1</sup> Hymn to Intellectual Beauty, st. III.

<sup>2</sup> Cf. Adonais, st. 43.

<sup>3</sup> Prometheus Unbound, Act III.

events and gathered wisdom from its knowledge. He had not lost his faith in human perfection but had a clearer vision of man's future. Necessarily his ideas regarding the methods to be pursued for the attainment of human perfection were very largely influenced by what he had seen and observed.

Godwin was too near the French Revolution to be ignorant of its excesses and its tyranny. He was thoroughly convinced of its futility to bring about any permanent improvement of society. From the standpoint of abstract principles he was conscious that revolutions seldom contribute to the dissemination of truth and rational ideas. Security, permanence, and a tranquil and dispassionate temper "are absolutely necessary for the proper exercise of the human understanding without which no real progress can be attained. But in times of revolution the most astonishing vicissitudes of fortune are of daily occurrence; and a thousand evil passions are generated. Those who sustain the loss of their friends and relatives by a catastrophe of this nature are filled with indignation and revenge. Distrust is propagated from man to man and the dearest ties of human society are dissolved." <sup>1</sup>

Revolutions, moreover, are as oppressive as the worst forms of despotic power. Both smother free speculation with a firm hand. At times of crisis every word is dreaded and every opinion is carefully scrutinised. Truths regarded to be subversive of their own doctrines are ruthlessly suppressed.<sup>2</sup> This most odious type of despotism is, unfortunately, a peculiar characteristic of revolutionary regimes.

Abstract changes, again, Godwin pertinently pointed out, can never be fully assimilated; and it is dangerous to introduce them before the community, as a whole, has arrived at an adequate stage of intellectual development. The more

<sup>1</sup> and <sup>2</sup> *Political Justice*, IV, ii.

gradual is the progress of reform, the greater is its chance of benefiting society. An ideal to be really effective among a people must not be too distant from its environment of thought. It must be capable of being easily adjusted to the doctrines and principles prevalent during that particular age. Revolutions confound this process of nature and "give us ideals for which we are not prepared, which we cannot effectually use." Nurtured as he is upon principles of human perfectibility, a philosopher of Godwin's school is not, in the least, impatient of the slow progress made by liberal tendencies in society. He knows that perfection always eludes the grasp of man and "confines neither his hopes nor his desires within any specific limits. For he has undertaken a labour without end and, therefore, expects that improvements should take place, in a mild and gradual though incessant advancement, and not by violent leaps nor by concussions." <sup>1</sup>

"Government," Godwin asserted, "is founded on opinion; nor can any attempt to govern men otherwise than in conformity with their own conceptions, be expected to prove salutary. A project, therefore, to introduce abruptly any political institution, merely from a view of its absolute excellence and without taking into account the state of the public mind must be absurd and injurious." <sup>2</sup> It is necessary to proceed slowly and cautiously where the problem is so complex and the stakes risked so high and comprehensive. Reason should not, consequently, be carried away by the exuberance of passion and the impetuosity of idealism. It should be sober and tranquil, spreading, in a gradual yet uninterrupted course, through society. Truth thus disseminated in slow degrees, will, at first, be comprehended by a comparatively small number of men. But every new convert will become its ardent missionary and thus the circle of its votaries will increase till the majority of men are brought

<sup>1</sup> Political Justice, IV, ii.

<sup>2</sup> *Ibid*, III, vii.

under its influence.<sup>1</sup> It is not at all necessary to overturn a government by violence ; no institution, political or social, can ever subsist in a nation, the individual members of which withdraw from it their support and confidence ;<sup>2</sup> let a nation be convinced of the desirableness of a reform ; let the magic of opinion be once dissolved and the chains which had, so long, oppressed them will fall off, of themselves.<sup>3</sup>

The study of Godwin's political writings exerted a profound influence on Shelley. The poet was firmly convinced that revolutionary changes cannot bring about the slightest progress of society, much less the redemption of man. Reform is possible only when the community in general has been prepared for it by the dissemination of liberal ideas. His was a "plan of amendment and regeneration in the moral and political state of society on a comprehensive and systematic philanthropy ;" it was sure, though slow in its progress, "without the rapidity and danger of revolution," on the one hand and "devoid of the time-servingness of temporising reform" on the other.<sup>4</sup> Progress should not be abrupt ; it must be gradual, proceeding in a cautious manner, with the ever-widening illumination of the common mind. Like Godwin, Shelley was content to wait patiently in expectation of the millennium. He might observe "many things put in train during his life-time" but he could not hope to see the work of virtue and reason finished before his death. He could only lay the foundations of progress for future generations to come.<sup>5</sup>

Moreover, every attempt of reform, according to Shelley, depends not upon any outward and adventitious circumstances but upon the character of the individuals themselves. Before the restraints of Government are lessened, it is fit that we should lessen the necessity for them. Not only so ; the public communication of truth

<sup>1</sup> Political Justice, III, vii.

<sup>2</sup> *Ibid*, III, vi.

<sup>3</sup> *Ibid*, I, vi.

<sup>4</sup> and <sup>5</sup> Cf. Shelley, Address to the Irish People, *Post Script*.

should, in no way, disturb the established usages of society which it is destined to displace. If it does so, violent and abrupt changes will, assuredly, impede the progress of the regeneration of man, which it seeks to accomplish. Unless opinions in favour of reform are widely established in society, prejudices and the natural inertia of the common people will form an insuperable barrier to all change. "Nothing can be more rash and thoughtless, than to show, in ourselves, instances of any particular doctrine before the general mass of the people are so convinced, by the reasons of the doctrine, that it will be no longer singular."<sup>1</sup> Else, the result is violence; and all possibilities for the redemption of man are destroyed.

Equally emphatic was Shelley in his condemnation of violence in any form. He deprecated "the scenes of revolutionary horror which marked the struggle of France," and was firmly convinced that, though undertaken with the best intentions, it ended ill for the people simply because violence was employed. He even did not wish to see things changed at that particular age as it could not be done without force and "force makes the side which employs it directly wrong; nor can any one approve the headstrong and intolerant zeal of its adherents"<sup>2</sup> "Do not use force nor have recourse to violence," runs as a refrain, as it were, in his *Address to the Irish People*. "Everything is to be dreaded," said the poet, "you, yourselves, will be unworthy of even a restoration...to your rights, if you disgrace the cause.....of truth and liberty by violence." Again: "how stupid and sottish must these men be, who think that violence and uneasiness of mind have anything to do with forwarding the views of peace, harmony, and happiness." Like Godwin, again, he prophesied that nothing is so well fitted to produce slavery, tyranny, and vice as the violence which is attributed to the friends of liberty, and which the

<sup>1</sup> and <sup>2</sup> Shelley, *Address to the Irish People*.

real friends of liberty are the only persons to disdain. We should, therefore, disclaim force and trust our cause solely to its own worth. If we are convinced of the truth of our cause, we should depend wholly on its own intrinsic merit; if not, we should give it up.<sup>1</sup>

Shelley was always conscious that true progress and true reform are slow in their growth. The clouds of ignorance and prejudice, of age-long superstitions and hoary traditions lie heavily on the minds of nations. Crime, falsehood, despotism, hypocrisy—all seek to perpetuate their sovereignty over the communities of men. Humanity groans, for centuries together, under the fetters imposed upon it by custom and the established institutions of society. Its efforts for self-realisation and self-development are stifled by the benumbing influence of its own environments.<sup>2</sup> Yet, let men once awakened from the stupor of slavery and ignorance; let the religious fraud and political despotism by which they had been deluded into submission be once exposed to their understanding; and at once a mighty change comes over their spirit; they are no longer inert and submissive; but like a lion shaking his mighty manes the entire people, with single-minded determination, immediately rouses itself and scatters to the four winds all impediments in the path of its progress. Despotic governments and intolerant religious systems wither away before its stern gaze, they crumble up into nothingness before its questioning glance.<sup>3</sup> The course of such a great transformation, is, however, absolutely sober and tranquil, unmarked by atrocities and uncontaminated by bloodshed. For the poet was never weary of holding up to praise “the tranquillity of successful patriotism and the universal toleration and benevolence of true philanthropy.”<sup>4</sup>

<sup>1</sup> Cf. Shelley, *Address to the Irish People*.

<sup>2</sup> Cf. *Queen Mab*, IX.

<sup>3</sup> Cf. *Revolt of Islam*, Canto V.

<sup>4</sup> *Ibid*, Preface.

The hirelings of despotism may treacherously murder  
thousands of innocent patriots, trampling

“ .....in treacherous war,

The gentle hearts whose power their lives had sought to spare.” <sup>1</sup>

But when their scattered battalions are swiftly encompassed round by the revolutionary forces, the leaders of the insurgents, restrain, with wonderful discipline, all occasional outbursts of passion among their followers. For,

“ ... Wherefore should ill ever flow from ill  
And pain still keener pain for ever breed ?  
We all are brethren—even the slaves who kill  
For hire, are men ; and to avenge misdeed  
On the misdoer, doth but misery feed  
With her own broken heart !<sup>2</sup>

There are moments, indeed, when the votaries of freedom are liable to be carried away by a spirit of revenge. They had suffered bitterly and now they find their oppressors helpless before their mighty hosts. It is only natural for them to mistake vengeance for justice. The very sight of their tyrannical rulers reminds them of their past misery and in exasperation, they demand blood for blood.

“ .....—He who judged let him be brought  
To judgement ! blood for blood cries from the soil  
On which his crimes have deep pollution wrought !  
Shall the king only unavenged dispoil ?  
Shall they who, by the stress of grinding toil,  
Wrest from the unwilling earth his luxuries,  
Perish for crime, while his foul blood may boil,  
Or creep within his veins at will ?—Arise !  
And to high justice make her chosen sacrifice.” <sup>3</sup>

<sup>1</sup> Revolt of Islam, V, vi.

<sup>2</sup> *Ibid*, V, xi.

<sup>3</sup> *Ibid*, V, xxxii.

Yet even in moments of such intense excitement the leaders do not lose heart. They expostulate with the more violent of their followers and impress upon them the truth that

“.....the chastened will  
Of virtue sees that justice is the light  
Of love, and not revenge, and terror and despite.”<sup>1</sup>

Thus admonished, the forces of Liberty remain true to their mission of peace and good-will. And the mighty hosts march along, “lifting the thunder of their acclamation,” a people,

“Made free by love,—a mighty brotherhood  
Linked by a jealous interchange of good,  
A glorious pageant.”<sup>2</sup>

Their whole career is marked by jubilation and rejoicings. The city-walls are thronged on high to catch a glimpse of their glorious march and at their approach,

“.....a shout of joyance sprung  
At once from all the crowd as if the vast  
And peopled Earth its boundless skies among  
The sudden clamour of delight had cast.”<sup>3</sup>

Even their opponents are converted,

“Those bloody hands so lately reconciled,  
Were, ever as they went, by the contrition  
Of anger, turned to love, from ill beguiled.”<sup>4</sup>

This is the ideal which Shelley always kept before him ; and although, in the end, the forces of rebellion are represented as vanquished by the treachery of tyrants, although the patriots are mercilessly massacred by the hired soldiers of the

<sup>1</sup> Revolt of Islam, V, xxxiv.

<sup>2</sup> *Ibid*, V, xiv.

<sup>3</sup> *Ibid*, V, xv.

<sup>4</sup> *Ibid*, V, xvii.



confederate powers, yet, throughout the history of this revolutionary episode, the one essential principle which Shelley, in the character of Laon, placed before his readers, both by precept and by example, is an ideal of peaceful reform and not of abrupt change brought about by violent means. Perfection has to be attained after a long process of effort and exertion. The happy ferment of reason and passion works steadily indeed, but cautiously none the less.<sup>1</sup>

“ Yet, human spirit, bravely hold thy course  
Let virtue teach thee firmly to pursue  
The *gradual* path of an aspiring change.”<sup>2</sup>

This principle of non-resistance to evil except by an enlightenment of the human intellect which Godwin enunciated and made popular is the corner-stone, as it were, of the *Prometheus Unbound*. Prometheus “nailed to the wall of eagle-baffling mountains,” for three thousand years of “sleep-unsheltered hours” suffers untold misery: he undergoes not physical tortures alone but mental agony as well. With a refinement of cruelty, truly diabolical in its effects, the Furies of Jupiter reveal to him the tragedies through which Humanity will have to pass in course of its future development. The great tragedy of the martyrdom of Christ and the tremendous upheaval of the French Revolution are both slowly unrolled before the agonised gaze of the Titan; the torturers of Hell mock him to his face for kindling within man

“ .....a thirst of fever fierce  
Hope, love, doubt, desire, which consume him for ever.”<sup>3</sup>

Even in the midst of these sufferings, the Titan remains firm in his faith and strong in his determination. He does not submit, but awaits, with superhuman fortitude, the retributive hour of liberation. He is the type of Humanity idealised by

<sup>1</sup> Cf. *Queen Mab*, IX, 35-55.

<sup>2</sup> *Ibid*, IX, 146-48.

<sup>3</sup> *Prometheus Unbound*, I, l. 550.

Shelley, upright and strong, yet full of love and pity. He rises superior to his own darker passions; he speaks in grief, not exultation, for misery has made him wise. All evil wishes are dead within him and he no longer desires that any living thing should suffer pain.<sup>1</sup> The redemption of man, Prometheus' release from his tortures, is brought about not by sudden violent changes, but by a slow process of development.<sup>2</sup> The Millennium comes, only when its ground has been slowly prepared by Love under the inspiration of Faith and Hope.

Associations are often regarded as useful instruments for the advancement of Humanity. Not only do  
 Associations. they ascertain public opinion which, otherwise, would remain problematical, but they also diffuse political information in the most rapid and effectual way. Thus they are indispensable for the purpose of counteracting abuses and carrying into effect measures of reform. Godwin, however, thought otherwise. He was too intimately conversant with the workings of the English Party-system and the Revolutionary Clubs in France to be enthusiastic about associations, political or otherwise. Instead of promoting truth, which alone can hasten political and social progress, they only "tend to check its accumulation and render its operation, as far as possible, unnatural and mischievous."<sup>3</sup> They use every artifice, patronage, list of venerable names, appeals to passions and sentiments,—to hypnotise the intellect of their fellow-men, and impose the opinions of a section of the community on the whole. Man is never permitted to think for himself; on the contrary, he is confronted with a ready-made creed and a full-fledged system of thought, either to accept or to reject. And even when he is choosing, he is never allowed to be sober, but is wheedled into surrendering his judgment to the

<sup>1</sup> Cf. *Prometheus Unbound*, Act I, Sc. I.

<sup>2</sup> *Ibid.*, Acts II and III.

<sup>3</sup> *Political Justice*, IV, iv.

guidance of his so-called "Leaders." He loses his personality and becomes a mere instrument. He learns the Shibboleths of his party and repeats them with parrot-like regularity. He fears to "leave his mind at large in the field of enquiry"<sup>1</sup> lest he should tumble upon an opinion distasteful to his associates. His mind thus becomes "quiescent and stationary," losing all incentive towards independent speculation.

In the party itself, "the turbulent, the intemperate and the artful" gain the upper hand and tyrannise over the "more prudent and contemplative section."<sup>2</sup> Not truth but prejudice triumphs in this system. Rivalry for leadership and ambition further vitiates the foundation of parties. Opinions are held not because they are true, but because they are acceptable to the unthinking rank and file. The leaders themselves, "resign the integrity of their judgment"<sup>3</sup> and try to play upon the passions and prejudices of their followers.

Yet their party must always be in the lime-light. "Affairs must wait upon them, and not they upon affairs. They are not content to act,.....they must make the emergence to satisfy the restlessness of their disposition."<sup>4</sup> The inevitable reaction follows and communities are, often, terrified into a fresh hardening of their orthodoxy, by the indecent clamour of party politics. Associations are, therefore, inimical to progress and stifle the growth of true freedom. They simply create a fallacious uniformity of opinion, effete and powerless, because of its very uniformity.<sup>5</sup>

Profoundly influenced though he was by the speculations of Godwin, Shelley differed from his master in his views on the efficacy of associations to bring about the redemption of man. He did not share Godwin's strong criticism of the evil effects which resulted from the operation of Party Căucuses and the influence of Party Cries. Instead of stifling the

<sup>1</sup> Political Justice, IV, iv.

<sup>2-5</sup> *Ibid.*

independence of Reason, associations, according to Shelley, fostered the cause of progress and reform, As early as 1811, he sent to Leigh Hunt a proposal for the establishment of organisations to strengthen the progressive elements in society. It was a "scheme of mutual safety and mutual indemnification for men of public spirit and principle, which, if carried into effect, would, evidently, be productive of incalculable advantages."<sup>1</sup> The ultimate intention of his aim was to convene a meeting of "the unprejudiced members of the community whose independent principles expose them to evils."<sup>2</sup> The combined efforts of such associations and meetings would surely alleviate the condition of oppressed reformers; and a "methodical society" thus organised, is the only way in which we can "resist the coalition of the enemies of liberty who, at present, render any expression of opinions on matters of policy dangerous to individuals." The poet was firmly convinced that despotism of every type had been able to gather strength and power only because the disorganised state of the community had allowed it to do so. "It has been," wrote Shelley, "for want of societies of this nature (*i.e.*, societies of reformers) that corruption has attained the height at which we now behold it;"<sup>3</sup> and he was absolutely certain that a society of equal extent would "establish rational liberty on a firm basis."<sup>4</sup>

In course of time, Shelley's belief in societies and public bodies grew stronger. He had read and considered the arguments of Godwin against political and social organisations as such, but they could not undermine his faith; on the contrary, whenever he was brought face to face with critical situations, he was, at once, reminded of the powerful Clubs and Societies which, during the days of the French Revolution, had exerted so great an influence over its course of events. The cause of Irish Freedom appealed to his heart and he

<sup>1-4</sup> Shelley, Letter to Leigh Hunt (March 2, 1811).

felt that such a crisis "ought not to be permitted to pass unoccupied or unimproved;" and one of the measures which he regarded to be indispensable for the cause was the establishment of a Philanthropic Society;<sup>1</sup> so firm was he in his opinion on this particular point that even the remonstrances of Godwin could not shake his faith.<sup>2</sup> He was "not forgetful or unheeding" of what his master had said of associations; yet he could not but point out how truth though widely disseminated, cannot, of itself, produce any salutary change in society. *Political Justice*, for instance, had been published in 1793; and even after twenty years since its publication and the general diffusion of its doctrines, its influence on public affairs had been slight and almost negligible. "What has followed?" asked Shelley, "Have men ceased to fight? Have vice and misery vanished from society? Have the fire-side communications which it recommended, taken place? Out of the many who have read that inestimable book, how many have been blinded by prejudice; how many, in short, have taken it up to gratify an ephemeral vanity?"<sup>3</sup> Dissatisfied with the progress of liberalism during the twenty years which followed the wide dissemination of revolutionary principles in the works of Godwin, Shelley was constrained to admit that the state of society was retrogressive; even if it were not actually so, it was at best, stationary. The eager activity of philanthropists was, consequently, an absolute necessity.<sup>4</sup>

Benevolence may, however, gradually spread over the country, yet it cannot be kept alive without definite organisations. "Individuals, acting singly, with the utmost energy and enthusiasm, cannot propagate and corroborate that generous and philanthropical feeling" nor sustain and develop "that love for the human race" which is, according to the poet,

<sup>1</sup> Shelley, Letter to Godwin (Feb. 24, 1812).

<sup>2-4</sup> Shelley, Letter to Godwin (March 8, 1812).

the one thing needful for the redemption of man and the regeneration of society. It is associations alone which can concentrate the activities of reformers on the one central purpose and effect what they could never have done, unless they were united together into a corporate body.<sup>1</sup>

Shelley was, however, too profoundly influenced by the speculative theories of Godwin to be blind to the defects inherent in corporate activities. The writings of his preceptor and his arguments were always fresh in his memory; and to them Shelley often referred as allies in the cause of liberty which he sought to vindicate. Not in vain had he been warned against fictitious unanimity; nor had he ever lost sight of the advantages of confidential discussions which Godwin had so warmly recommended. It was, therefore, only natural that the poet should propose a scheme which, he considered, would not "be contradictory, but strictly compatible with the principles of *Political Justice*;"<sup>2</sup> and he was very proud to declare that his scheme had grown 'out of the ideas which he had received from his master,—combining as it did "the adoption of free and unfettered discussion with the rejection of superficial agreement."<sup>3</sup> Shelley was, accordingly, very careful to lay down that "any number of persons who meet together for philanthropical purposes, should ascertain, by friendly discussion, those points of opinion wherein they differ, and those wherein they coincide, and should, by subjecting them to rational analysis, produce an unanimity founded on reason."<sup>4</sup> Far from being coerced into compliance with the views of the majority, the minorities, in such associations, would always have, in cases of acute differences of opinion, on any question of moment and interest, the right to secede—a refinement

<sup>1</sup> Cf. Shelley, *Proposals for an Association*.

<sup>2-4</sup> Shelley, Letter to Eliz. Hitchener (Feb. 27, 1812).

Shelley, Letter to Godwin (March 2 and 18, 1812).

Shelley, *Proposals for an Association*.

of secession which would, assuredly, according to the poet, prevent mechanical uniformity. Moreover, the discussions would receive as wide a publicity as possible and thus render ineffectual, all secret schemes of violent innovations.<sup>1</sup> His plan proposed no hasty measures ; on the contrary, its aim was a "facilitation of enquiry," rather than a tyrannical suppression of individual opinions. So sanguine was the poet in his hopes regarding the future of such associations, that he seriously thought of extending them far and wide, covering Great Britain and Ireland with a net-work of such societies; for he was sure, that by doing so he would be able to revolutionise his country without bloodshed or any other sort of oppression.<sup>2</sup>

Associations so constituted and conducted "in the spirit of sobriety, regularity and thought" are, in consideration of the reasons previously indicated, "one of the best and most efficient of those means which produce happiness, liberty and virtue."<sup>3</sup> But they must have, for their object, universal emancipation and universal happiness, and organise philanthropists who are willing "actively to engage in its cause and passively to endure the persecution of those who are inimical to its success." In his *Proposal for an Association of Philanthropists for Ireland* Shelley definitely set forth his ideas regarding the purpose and functions of such societies. "I propose," declared the poet, ".....to form an association for the purposes, first, of debating on the propriety of whatever measures may be agitated; and, secondly, for carrying, by united or individual exertion, such measures into effect when determined on."

Again: "it should be an association for diffusing knowledge and virtue throughout the poorer classes of society; for"

<sup>1-2</sup> Shelley, Letter to Eliz. Hitchener (Feb. 27, 1812).

Shelley, Letter to Godwin (March 2 and 1812).

Shelley, Proposals for an Association.

<sup>2</sup> Shelley, Letter to Elizabeth Hitchener (Feb. 27, 1812).

co-operating with any enlightened system of education; for discussing topics calculated to throw light on methods of alleviation of moral and political evils; and, as far as it lies in its power, actively interesting itself in whatever occasions may arrive for benefiting mankind."

The first opposition which Shelley experienced was from Godwin who remonstrated with the young poet in his usual tone of firmness and candour. Though he still adhered firmly to his opinions, Shelley seemed to hear in the arguments of Godwin the voice of reason<sup>1</sup> and his former dogmatism was, to a very great extent, weakened. But the rudest shock that he ever received, was from the apathy of the Irish people themselves. "My youth is much against me," wrote the bewildered poet, "I am surprised that truth should not be judged by its inherent excellence, independent of any reference to the utterer"<sup>2</sup> and he soon came to recognise the utter futility of all such schemes, especially, in the condition of society prevalent in his age.

Moreover, the incipient individualism in the poet gradually asserted itself; his ideals of the future millennium of humanity, the description he gave of the gradual progress of man towards perfection, are all coloured by his individualistic standpoint of view. Man is now an individual, pure and simple. He requires no organisation, whether of philanthropists or of politicians and reformers, to lead him to his goal. It is the initiative of great and arresting personalities that can inspire mighty nations and rouse them from their stupor of ages. It is the personal example of such leaders which can guide them to their redemption. In his later poems, especially the *Revolt of Islam* and the *Prometheus Unbound*, we do not discern any influence of this particular aspect of Shelley's thought.<sup>3</sup>

<sup>1</sup> Shelley, Letter to Godwin (March 2 and 18, 1812).

<sup>2</sup> Shelley, Letter to Eliz. Hitchener (Feb. 27, 1812).

<sup>3</sup> In *A Philosophical View of Reform*, however, Shelley reverted to this idea. Vide Note B.



Godwin's ideals of the future redemption of man were firmly based upon his belief that positive institutions alone impede the progress of mankind and stifle their aspirations for a free and unfettered exercise of reason. They should, therefore, be suppressed altogether, or, at least, be rendered powerless.

The Human understanding. The most efficacious way of doing so consists in appealing to the human understanding. Godwin's perfect man is an abstraction. He is Intellect Personified. Passions cannot overcome him nor the senses govern his actions. Gratitude, filial affection, reverence and other emotions he may have, but they do not smother the voice of reason. Show him in the clearest and most unambiguous manner, that a particular course of action is most reasonable in itself and he will infallibly follow it. For, according to Godwin, "We are, no longer, at liberty to consider man as *divided between two independent principles*, or to imagine that his inclinations are, in any way, inaccessible through the medium of his understanding.....The thinking principle within us is uniform and simple.....There is no conduct in itself reasonable which, the refutation of error, and the dissipation of uncertainty will not make appear to be such. There is no conduct which can be shown reasonable, the reasons of which may not, sooner or later, be made impressive, irresistible and a matter of habitual recollection. Lastly, there is no conduct, the reasons of which are thus conclusive and thus communicated, which will not be.....uniformly adopted by the man to whom they are communicated." <sup>1</sup>

Yet Godwin was constrained to admit that there is some place, however subordinate, for passion and emotion in his scheme of things. Even he had to assert that virtue, sincerity, and justice and all other principles beneficent to man,

<sup>1</sup> Political Justice, I, v.

can be " strenuously espoused " only when they are " ardently loved " that is to say, if " their value is clearly perceived and adequately understood ; " <sup>1</sup> and thus the Venus of Godwin stands revealed before the ardent gaze of his followers as a veritable Minerva indeed.

From his early youth, Shelley firmly believed that man being a rational creature, all his essential characteristics are lost if he fails to develop his intellect. He should not take anything on trust but should, in his onward march towards perfection, pass " the point before which he could not or used not to reason " and that also at an early stage of his life. Henceforth, he should exercise his intellectual faculties and " take interest in the inferences he draws therefrom." To forbid him the use of his intelligence is to deny him, " that which is, or ought to be, the essence of his being." Take away from man, his reason, and you leave him, " not an 'animal rationale' but 'irrationale,' retaining no distinguishing characteristic of 'Man' but '*Animal bipeds implume risible*.' " <sup>2</sup> Not only so ; Reason is the surest guide to virtue ; it makes us see truth in all its beauty and grandeur, and stimulates us to exert ourselves strenuously for the attainment of perfection. The poet was, for some time at least, so fascinated by the brilliant arguments of Godwin that he accepted, without hesitation, the Godwinian ideal of man as an embodiment of intellect, uncontaminated by feelings and emotions. " How racking it is to the soul," exclaimed Shelley, " when enquiring into its own operations, to find that, perfect virtue is far from attainable, to find *reason tainted by feeling*, to see the mind, when analysed, exhibit a picture of irreconcilable inconsistencies, even when, perhaps a moment before, it had imagined that it had grasped the fleeting phantom of virtue." <sup>3</sup>

<sup>1</sup> Political Justice, I, v.

<sup>2</sup> Shelley, Letter to Sir Timothy Shelley (Feb. 6, 1811).

<sup>3</sup> Shelley, Letter to Eliz. Hitchener (June 20, 1811).

Like Godwin, also, he derived greater confidence in his ideal of human perfection from a study of History.<sup>1</sup> The redemption of man is attainable only through the exercise of the human intellect and it is the task of human reason to bring about the Golden Age of human reason and human powers, "whose progression in improvement has been so great since the remotest tradition, tracing the general history of man to the point at which we now stand."<sup>2</sup>

Opinion is, then, the strongest power on earth. Once set a-working, there is nothing which can oppose its activities or impede its progress. Let the increase of virtue and wisdom "lead people to find out that force and oppression are wrong and false" and no government will have the power to coerce them any longer. On the contrary, such an opinion, as soon as it gains sufficient strength will, assuredly, wrest from the clutches of an unwilling government, the rights which had been taken away from the people. Reason and virtue are absolutely necessary for happiness and liberty; and the only way in which reforms can be brought about, is by "raising up intellectual opposition to counteract the abuses of society."<sup>3</sup>

The effects of such appeals to the intellect are instantaneous. The old philosopher in the *Revolt of Islam* unfolds truth to his countrymen and spreads, from shore to shore, "doctrines of human power;" and at once new aspirations, a "warmer zeal" and "a nobler hope" inspire the whole nation. Tyrants now tremble in their seats of power; and the ministers of Fraud

".....can scarce dissemble  
The lies of their own heart;"

Perchance blood need not flow, perchance the very slaves would respond to the voice of reason and redemption may

<sup>1</sup> Vide Dowden, Life of Shelley. <sup>2</sup> Shelley, Letter to Eliz. Hitchener (Oct. 18, 1811).

<sup>3</sup> Shelley, Address to the Irish People.

'come by eloquent persuasions of "soul-subduing tongues" and the great strength of words.'

Similarly Laon restrains the passions of his excited followers not by a show of authority, nor by the adoption of coercive measures but by a frank appeal to their intelligence and immediately,

".....to the despair  
Of him whom late they cursed, a solace sweet  
His very victims brought—soft looks and speeches meet." <sup>2</sup>

Cynthia is being carried away by the slaves of tyranny, when she reveals to them the inherent injustice of political and social institutions. Her words leave a profound impression on the minds of her audience. "Thou readest well the misery told in these faded eyes," they exclaim,

"Even from our childhood have we learned to steep  
The bread of slavery in the tears of woe."

The seamen, the pilot and even the Captain, stand in a trance and enthusiastically respond to her call for liberty.<sup>3</sup>

Reason with Shelley had, however, a quite different significance. Instead of being completely divorced from feelings, it was the sublimated essence of their highest manifestation. It is not "a cold and insensible arbiter" but "an assemblage of our better feelings—passion considered under a peculiar mode of its operation."<sup>4</sup> The intellectualised emotions of Godwin could not satisfy the ardent spirit of Shelley; his enthusiastic nature wanted far other materials for its sustenance. It was, therefore, only natural for the poet to regard a harmonious blending of the intellect and the emotions as a necessary requisite for the happiness of man.<sup>5</sup> "Virtue consists of

<sup>1</sup> *Revolt of Islam*, IV, xiii, xiv, xvii, xviii. <sup>2</sup> *Ibid*, V, xxxv.

<sup>3</sup> *Ibid*, VIII, xxiii, xxvi, xxvii.

<sup>4</sup> Shelley, Letter to Hogg (Feb. 7, 1813).

<sup>5</sup> Shelley, Address to the Irish People.

benevolence and justice, or rather, the *desire* to be the author of good and the *apprehension* of the manner in which it ought to be done”<sup>1</sup>—two elements of which benevolence is, surely, more powerful. “All the theories which have refined and exalted humanity or those which have been devised as alleviations of its mistakes and evils, have been based upon the elementary *emotions* of disinterestedness which, we feel, constitutes the majesty of our nature.”<sup>2</sup> And thus the happy ferment of reason and passion works steadily on.

“ Reason was free ; and wild though Passion went  
Through tangled glens and weed-embosomed meads  
Gathering a garland of its strangest flowers,  
Yet like the bee returning to her queen,  
She bound the sweetest on her sister’s brow.”<sup>3</sup>

Nor could love mean “clear perception and adequate understanding” as it was with Godwin. The chastened will of virtue sees that justice is the light of love—a passion and an inspiration, which totally transforms the character of men who come under its influence. Such benevolent propensities are not the product of human reason or the human understanding; they are, on the contrary, inherent in the human nature. Mind “acquires, by exercise, a habit, as it were, of perceiving and abhorring evil, however remote from the immediate sphere of sensations with which it is conversant.”<sup>4</sup> It is impelled not only to seek its own happiness but the happiness of others as well. It sympathises with the sufferings of its fellowmen and finds, in the eradication of their pain, the true happiness of its own nature. Disinterestedness is, consequently, an instinct of the human mind, innate in his nature, which is, more or less, developed

<sup>1</sup> Shelley, *Speculation on Morals*, Introduction.

<sup>2</sup> Shelley, *Speculation on Morals*.

<sup>3</sup> Cf. *Queen Mab*, IX, 35-55.

<sup>4</sup> Shelley, *Speculation on Morals*.

according as society is more or less civilised.<sup>1</sup> It is "the product of a cultivated imagination and has an intimate connection with all the arts which add ornament or dignity, or power, or stability to the social state of man."<sup>2</sup> Thus imagination replaces Reason in Shelley's plan of human progress. It is not reason—even as Shelley conceived it—but "imagination or, mind employed in prophetically imaging forth its objects," which constitutes the fundamental principle underlying all progress and all change. "Imagination" is that "faculty of the human nature on which every gradation of progress, nay, every, the minutest, change depends;"<sup>3</sup> and the only difference between selfishness and virtue is a difference in the comprehensive character of their imagination. The imagination of the virtuous man is not confined to a narrow limit, but embraces, by a strongly developed vision, a larger number of his fellow beings.<sup>4</sup>

"The greatest instrument of moral good is thus, imagination; and a man in order to be greatly good, must imagine intensely and comprehensively."<sup>5</sup> He must try to enter into the feelings and emotions of his fellowmen and identify himself with them in their weal and woe. The pains and pleasures of humanity must be his own. Unlike Godwin, Shelley, now, could, no longer, admit the predominance of reason as an instrument of perfection. On the contrary, mere reason or intellectual attainments are powerless; knowledge unilluminated by emotions cannot reform society. It must first be assimilated by the creative imagination of man, before it can be fully utilised. "There is no want of knowledge respecting what is the wisest and best in government and political economy, or, at least, what is wiser and better than what men now practise and endure."<sup>6</sup> Yet there is no progress in human society, no attempt to utilise this knowledge for the attainment of

<sup>1-4</sup> Shelley, *Speculation on Morals, Benevolence*.

<sup>5-6</sup> Shelley, *Defence of Poetry*.

perfection. We seem to possess more political, moral and historical wisdom than we know how to reduce to practice. This is the paradox with which Shelley confronted the Godwinian School of Thought—a paradox inexplicable on the assumption that reason is the predominating element of human life.

To Shelley, now no longer the blind follower of Godwin, one thing is certain. The discoveries of science have, undoubtedly, extended the limit of man's control over nature ; but, they have, at the same time, considerably circumscribed his mastery over his inner world of self.<sup>1</sup> "We want the creative faculty to imagine what we know ;" and "the accumulation of the materials of external life, has exceeded the quantity of the power of assimilating them to the internal laws of human nature."<sup>2</sup> Man having enslaved the elements, remains himself a slave.

What is needed for the development of man and his ultimate attainment of perfection is not knowledge, but imagination ; not the *human understanding*, but *human love* ; not more "adequate conceptions of truth" as Godwin would have it, but "a going out of our own nature, and an identification of ourselves with the beautiful which exists in thought, action or person not our own."<sup>3</sup> "Until the mind can *love*," reiterated the poet significantly, "and admire, and trust and hope and endure, *reasoned principles of moral conduct* are seeds cast on the highway of life, which the unconscious passenger tramples into dust, although they would bear the harvest of his happiness."<sup>4</sup> Love, or sympathetic imagination, is, consequently the guiding principle of Shelley's dream of the Human Millennium. She transforms the universe and clothes its dim shapes with a divine radiance.

In the *Prometheus Unbound*, the poet uttered his prophecy in verses of exquisite melody. His new-born faith in love as the law of life finds, in its matchless imagery, an expression

<sup>1-2</sup> Shelley, Defence of Poetry.

<sup>3</sup> Shelley, Introduction to *Prometheus Unbound*.

for all time. Humanity stands undaunted before the soul-killing oppression of despotic power; in the midst of his misery he feels the potent influence of love.

“And yet I feel  
Most vain all hope but *love* ;”

He remembers Asia, his beloved, the spirit of beauty and love, whose footsteps pave the world with loveliness—“she, who

“.....never sleeps but when  
The shadow of thy (his) spirit falls on her.”

In the distant Indian valley which her very presence clothes with radiance, Asia waits, in eager expectation, for the news of Man, her Consort. She is attended not by the spirit of Understanding or Intellect but by Ione and Panthia, the spirits of Faith (or Intuition) and Hope. In the eyes of Faith, Love sees the vision of human perfection. The over-powering light of Man's immortal shape is shadowed over by Love, and the soft light of his smiles spreads like radiance from the cloud-surrounded moon. She feels within herself intuitive urgings of her own soul, vague indications of future experiences. The whole of nature around her is gradually spiritualised. The shadows of the morning clouds, the blossoms of spring, the purple mountain-slopes, have all, writ over them, appeals for action and spiritual effort. The clinging music of the pine boughs seems to utter low and sweet sounds urging her to follow the instinctive impulses of her own heart. The undefined spirit-voices of Nature echo the inspiration of her own soul; for

“In the world unknown  
Sleeps a voice unspoken  
By thy steps alone  
Can its rest be broken.”

Love must strengthen herself by passing through the whole gamut of human experience before she can attain the



redemption of man. And accordingly she proceeds, in obedience to these vague yet compelling spirit-voices, through the realms of sensation, feeling and thought, beyond the world of fleeting phenomena, deep into the regions of primal causes :—

“ Through the shade of sleep,  
Through the cloudy strife  
Of death and of life ;  
Through the veil and the bar  
Of things which seem and are  
Even to the steps of the remotest throne,”

Where

“ There is One pervading, One alone.”

There Asia confronts Demogorgon the awful shape of the Inscrutable Mystery, that “mighty darkness,” ungazed upon and shapeless, yet a living spirit. Knowledge now comes to her, not knowledge through the exercise of the Intellect but intimations received intuitively from the primal causes of things. The inevitable hour of retribution approaches near ; Asia is transformed by her spiritual experiences. Love, like an atmosphere of the sun’s fire filling the living world, bursts from her and illumines earth and heaven. The car of the fateful Hour rises and Jupiter, the spirit of despotism, is hurled headlong downwards by his own weight.<sup>1</sup>

This is the picture of Man’s redemption as imagined by Shelley ; how different from Godwin’s !

#### 4

#### *Conclusion.*

From a study of Shelley’s writings, and his correspondence during the early part of his life, it has been amply demonstrated that the poet had, as early as 1810, come into very intimate contact with the writings of Godwin and

<sup>1</sup> *Vide* Prometheus Unbound, Acts II and III.

had been considerably influenced by his thoughts and ideals. As early as 1814 this influence had been greatly strengthened by personal communion between himself and the Mentor of his ideal world. He thus gradually came to imbibe Godwinian Philosophy, especially its conclusions on the Human Mind, the Positive Institutions of Society and the Inner Spirit of Necessity pervading the Universe.

In some instances, *e.g.*, the theory that there are no innate ideas in the human mind, he had, in accepting the dicta of Godwin, to do violence to the instinctive idealism of his temperament. He had, very often, to compel forcibly his mind to accept conclusions repugnant to its own nature. While his mind and imagination demanded "the presence of a spirit of life throughout the Universe,"<sup>1</sup> his revolutionary proclivities led him to adopt the Godwinian doctrine of Necessity. His personality made him, oftentimes, listen to echoes of intuitive inspiration from a world of spiritual existences,<sup>2</sup> and wander about in the fields of immortality,<sup>3</sup> where

" The obstinate questionings  
Of sense and outward things,"

are all combined into "one oblivious melody confusing sense"<sup>4</sup>; yet, his reverence for Godwin, the Apostle of the Revolution, made him stifle all doubts and difficulties and adopt, without any hesitation, his associationist theories regarding the nature of the human mind.

There was, as a matter of fact, a keen opposition, sometimes implied and sometimes fully articulate,<sup>5</sup> between the poet's idealistic temperament and his intellectual adherence to the Godwinian School of Philosophy. He gradually came to acknowledge, as a result of this struggle, the existence of innate ideas and instinctive principles in the human personality. Not only so, the Godwinian Abstraction, Man, as Intellect Personified without emotions or impulses was soon

<sup>1</sup> Cf. Mrs. Shelley's notes on Prometheus Unbound.      <sup>2-3</sup> Epipsychidion.

<sup>4</sup> Triumph of Life.      <sup>5</sup> *E.g.*, His opinions on Associations; also "On Life."

replaced by more realistic interpretations of the human mind. Man became a being, complex in his nature in whom the intellect, the emotions and the impulses were harmoniously blended together. Similarly, Necessity, blind and passive no longer, governed the universe. The Spirit of Intellectual Beauty whose plastic stress sweeps through the dull, dense world, now illumined earth and heaven, the deep ocean and the sunless caves. Human Redemption was, no longer, brought about by the illumination of the Intellect alone, it became a more difficult task, involving a protracted series of spiritual experiences in which Love, Intuition and the Human Emotions played a very prominent part.

Thus the innate idealism of Shelley's nature asserted itself and, in course of time, he came to lose much of his enthusiasm for the philosophers and thinkers of the French Revolutionary Movement.<sup>1</sup> In the case of Godwin, this distaste was very greatly strengthened by personal considerations. In fact, Shelley's reverence for his erstwhile teacher received a very rude shock when he found the *father* intolerant of what the *philosopher* advocated. The poet had, in his early youth, written exultantly how his anti-matrimonial ideas were based upon the speculations of Godwin;<sup>2</sup> and he could not reconcile himself to the inconsistency when he found the same man acting the role of an injured father and refusing to hold communion with him or Mary except through an attorney. Godwin's apparent resentment was all the more inexplicable as he did not hesitate to accept "important pecuniary favours from the man whose offence against virtue and propriety was past forgiveness."<sup>3</sup> There was, consequently, discernible in the letters of Shelley written about this time, a tone of bitterness and anger which contrasted sadly with his previous epistles. "My astonishment," wrote Shelley, "and I will confess,

<sup>1</sup> Cf. Shelley, Letter to the Editor, "Examiner" (June 22, 1821).

<sup>2</sup> Shelley, Letter to Hogg (May 12, 1811).

<sup>3</sup> Cf. Dowden, *Life of Shelley*. Vide Note A.

when I have been treated with the utmost harshness and cruelty by you, my indignation—has been extreme, that knowing, as you do, my nature, any considerations would have prevailed upon you to have been thus harsh and cruel. I lamented also over my ruined hopes of all that your genius once taught me to expect from your virtue, when I found that for yourself, your family and your creditors you would submit to that communication with me which you once rejected and abhorred, and which no pity for my poverty or sufferings, assumed willingly for you, could avail to extort. Do not talk of *forgiveness* again to me, for my blood boils in my veins, and my gall rises against all that bears the human form, when I think of what I, their benefactor and ardent lover, have endured of enmity and contempt from you and all mankind.”<sup>1</sup> Although later on, Shelley adopted a more tolerant attitude towards his father-in-law, that old tie of mutual sympathies and mutual confidence was broken once for all.

The differences between the poet and the revolutionary thinkers were more fundamental and less personal; yet they were, to a great extent, coloured by his personal sentiments. Shelley was intensely emotional, his lyrics are all aflame with passion and his odes tingle with an ardent sympathy for down-trodden humanity. Moreover, he always lived in a world of ideals rather than in a world of concrete reality. Thus created and thus nurtured, the emotional temperament and idealistic mind of Shelley could not, for any length of time, be at home in the atmosphere of cold intellectualism in the midst of which he found himself. The frigid rationalism of Godwin could not satisfy his ardent disciple; a reaction was bound to set in, sooner or later. “The shocking absurdities of the popular philosophy of mind and matter, its fatal consequences in morals and its violent dogmatism” had, very early, led him to materialism, a system which had, by its

<sup>1</sup> Shelley, Letter to Godwin (March 6, 1816).

seductive influences, fascinated and enthralled his mind for the time being. Shelley, however, came soon to recognise that "materialism is a seducing system to young and superficial minds; it allows its disciples to talk and dispenses them from thinking;" and thus grew discontented with the view of things it afforded. Man now became "a being of high aspirations, 'looking before and after' whose thoughts wander through eternity, disclaiming alliance with transience and decay; he is incapable of imagining to himself annihilation .....being not what he is, but what he has been, and what he shall be."<sup>1</sup>

Shelley had, in his early youth, regarded *Queen Mab* as the one production in which he had been able to express his ideas and aspirations regarding the future of human society. In it and especially in the philosophical notes attached to it he had, as he himself confesses,<sup>2</sup> given free and frank utterance to his views and convictions about society, religion and the withering influence of their customs and institutions on the human personality. In the light of his maturer judgment these very speculations appeared to be mere cobwebs of an idle brain. The poem itself, was "worthless in point of literary composition," and still more "crude and immature in all that concerns moral and political speculations, as well as in the subtler discriminations of metaphysical and religious doctrines."<sup>3</sup>

In fact, Idealism which had always been a very marked trait of the poet's nature, and had so long been struggling, as it were, with the convictions and beliefs which he had inherited from his group or coterie, now asserted itself and transformed in its own light his opinions, social, political and religious. And this idealistic tendency of his mind grew stronger and stronger as Shelley came into more intimate

<sup>1</sup> Shelley, "On Life."

<sup>2</sup> Shelley, Letters.

<sup>3</sup> Shelley, Letter to the Editor, "Examiner" (June 22, 1821).

contact with the thinkers and writers of classical antiquity. Even in his student life, Shelley had been an ardent admirer of Plato and had been profoundly influenced by his philosophical theories. When he went to live in Italy the very atmosphere of the country, the very surroundings in the midst of which he lived, redolent, as they were with the aroma of the past, seemed to influence him profoundly and he soon became a worshipper of the beauty which was Greece and Rome. Plato now eclipsed Godwin.

## NOTES

### A

*Shelley's Relationship with Godwin during the latter part of his Poetical Career.*

Shelley expected that at least Godwin would be able to understand the motives underlying his elopement with Mary Godwin. "It has perpetually appeared to me," wrote he, "to have been your especial duty to see that, so far as mankind value your good opinion, we were dealt justly by, and that a young family, innocent, benevolent and united, should not be confounded with prostitutes and seducers." He was naturally indignant when he found that his former master was, no longer, his friend but rather a tacit opponent. He was shocked and staggered at Godwin's cold injustice<sup>1</sup> and lost all hopes in the future of humanity when he considered how worldly Godwin had become. "The hopes," wrote the bewildered poet under date March 7, 1816, "which I had conceived of receiving from you, the treatment and the consideration which I esteem to be justly due to me, were destroyed by your letter dated the 5th. The feelings occasioned by this discovery were so bitter and so excruciating that I am resolved for the future to stifle all those expectations which my sanguine temper too readily erects on the slightest relaxation of the contempt and the neglect in the midst of which I live." Yet he was always active in his endeavour to raise money for Godwin<sup>2</sup> nor did his disposition, in the least, depend on the question of Godwin's demonstrating personal kindness

<sup>1</sup> Cf. Shelley, Letter to Mary Godwin (Oct. 24, 1814), also Letter to Godwin, May 3, 1816.

<sup>2</sup> Vide Letter to Godwin, March 16, 1816.

to himself and Mary (*vide* Letter to Godwin, March 29, 1816). In spite of Godwin's importunities and persecutions, Shelley remained steadfast in his devotion to his mentor. Godwin might torture Mary with threats and "solemn lies" (*vide* Letter to Hunt, August 5, 1819) and pester Shelley with fresh demands of money, yet the much harassed poet never forgot his indebtedness to the philosopher. He always remembered that Godwin was the thinker who first awakened, and, to a degree, still regulated his understanding. Added years only added to his admiration for Godwin's intellectual powers (*vide* Letter to the Gisbornes, May 26, 1820). But he had, no longer, any delusion about the teacher of his youth. Godwin now appeared to him as a hardhearted person, "a solemn lie and not a man" (*vide* Letter to Hunt, August 15, 1819). Sometimes he had to remonstrate very firmly; "Your letters, from their style and spirit, never fail to produce an appalling effect on her (Mary's) frame. ...Mary at my request authorised me to intercept such letters or information as might disturb her mind. The correspondence, therefore, rests between you and me, if you should consider any further discussion of a similar nature with that in which you have lately been engaged with Mary, necessary after the full explanation, which I have given, of my views and the unalterable decision which I have pronounced. Nor must the correspondence with your daughter on a similar subject be renewed. It was even wholly improper and might lead to serious imputations both against herself and you, which, it is important for her honour as well as yours, that I should not only repel but prevent" (*vide* Letter to Godwin, April 7, 1820). The original relationship was now lost for ever, and was not renewed again.



## B

### *Shelley, Godwin and "A Philosophical View of Reform."*

On the 26th May, 1820, Shelley wrote to Leigh Hunt : "Do you know any publisher or book-seller who would publish for me an octavo volume entitled, 'A Philosophical View of Reform?' It is boldly but temperately written and, I think, readable." Written at a mature age the treatise represents Shelley as a realistic politician. He was no longer an imaginative poet who creates a visionary world of absolute perfection : nor a philosopher who pursues his principles to their logical conclusion. On the contrary, he was actuated by a spirit of practical idealism and sought to obtain a firmer grip upon the realities of life as it is. Abstract principles, indeed, inspired him with "tranquillity and courage and grandeur of soul ;" to them, the poet must advert as "to the goal, unattainable, perhaps, by us but which, as it was, we revive in our posterity to attain ;" but he refused, most irrevocably, to create, on their basis, imaginary dreams of human perfection. For here, Shelley admitted, as he did nowhere else, that his present business was with "the difficult and unbending realities of actual life" and his present endeavour, to apply himself, with patience and resolution, to "accommodating his theories to *immediate practice*."

This note of *real-politik* pervades the entire atmosphere of his thought and action. It governs his ideas and gives shape to his political principles. It rejects many of his earlier dreams and transforms many of his earlier ideals. He could no longer rest satisfied with abstract theories which he had, under the influence of Godwin, very ardently advocated during the earlier part of his poetical career. Even the very fundamental principles are shaken to their very roots,

In his earlier political pamphlets, one of the most significant ideas which receive an emphatic expression is the close association between politics and morality. Expediency is an idol which this youthful iconoclast sought to demolish ; and ethics, according to this ardent follower of Godwin, is applicable, not only to individual actions but to corporate activities as well.<sup>1</sup> His *Prometheus Unbound*, *Revolt of Islam*, and even *Queen Mab*, are efforts to lead politics back from expediency to righteousness ; and in none of them do we find any the slightest hint that this close relationship is an ideal only. On the contrary, Shelley was eager to apply this principle to all concrete events of life without any mental reservation. In *A Philosophical View of Reform*, however, everything is changed. The essential conception of political truth as something opposed to moral truth has him in its firm grip. The same principle may be a moral truth without being a political one ; and "Morals and politics can only be considered as portions of the same science, with relation to a system of such absolute perfection as Plato and Rousseau and other reasoners have asserted, and as Godwin has, with irresistible eloquence, systematised and developed." He did not want to fritter away his energy by trying to adjust existing institutions to such abstract principles.

The practical aim of *A Philosophical View*, also moderated, to a very great extent, the poet's hatred of positive institutions. Under the influence of his master, Shelley had, during the earlier part of his life, denounced all existing institutions as impediments in the path of human progress.<sup>2</sup> The *Queen Mab* is an impassioned plea for their abolition while the *Prometheus Unbound* celebrates, in verses of exquisite melody, their complete dissolution. In this later treatise, however,

<sup>1</sup> Shelley, Declaration of Rights.

<sup>2</sup> Shelley, *Queen Mab*.

we discern some lurking sympathy for them. He was now chary of accepting principles which "social institutions cannot without mischief inflexibly secure." Government is, no longer, an evil, nor even a necessary evil. Society is instituted for "man's advantage and for the advantage of others in his situation;" it is no longer the product of human weakness and human folly. Only it should be broad-based upon the willing consent of every individual belonging to the community.

Nor did the poet recommend the abolition of the entire social system ; on the contrary, one of the evil effects of civil war which he deprecated is "the obliteration and the sudden disruption of the bonds of social life." Even when the popular party becomes victorious, when, to quote the words of the poet, "the people shall have obtained, by whatever means, the victory over their oppressors and when persons appointed by them shall have taken their seats in the Representative Assembly" (which, curiously enough, Shelley still retained) their mission will not be confined to mere rejoicings for their victory and the consequent disappearance of social and political tyranny (as it is in *Prometheus Unbound* and his other poetical works) but to the task of "*accommodating all that can be preserved of antient forms with the improvements of the knowledge of a more enlightened age,*" not only in legislation but in religious (!) and academical institutions as well. This is a great transformation indeed. The bitter experiences of a life-time had, indisputably, clipped the wings of this great spirit and brought him down from the abstract heights of Godwinian philosophy to the cold, hard realities of life.

Shelley, no longer, soared to the highest regions of idealism ; he was no longer luminous with great ideals, nor radiant with high aspirations. His old assurance regarding the approach of the millennium had been crushed out of existence. His belief in the attainment of human perfection by one grand act of self-sacrifice and self-realisation

was completely lost. He was now convinced that "it is better that one object so inexpressibly great and sacred should never have been attempted than that it should be attempted and fail." Unlike the ardent disciple of Godwin who exultantly celebrated the demolition of social and political systems in his earlier works, this worshipper of *real-politik* would fain make a compromise with his opponents. He admitted that the inspiring influence of the great ideals of human perfection can uplift man. "Towards whatever we regard as perfect, undoubtedly it is no less our duty than it is our nature to press forward; this is the generous enthusiasm which accomplishes, not indeed the consummation after which it aspires, but one which approaches it in a degree far nearer than if the whole powers had not been developed by a delusion." But nothing is more idle than to reject a limited benefit because we cannot, without great sacrifices, obtain an unlimited one. And the poet sought to quieten the protest of the inherent idealism of his nature by pointing out that "it is no prejudice to the ultimate establishment of the boldest political innovations that we *temporize* so that when they shall be accomplished they may be rendered permanent."

Accordingly his conception of property underwent a significant change. He no longer denounced the institution of property and the principle of hereditary succession altogether. Basing (as he did in his notes to

Property.

*Queen Mab*) property on "labour and skill and the immediate wages of labour and skill," the poet recognised that "the right of man to property in the exertion of his own bodily and mental faculties or on the produce and free reward from and for that exertion is the most inalienable of rights." This is true property and "all political institutions ought to defend every man in the exercise of this discretion with respect to property so acquired."

The poet still clung to the Godwinian conception that inheritance is an evil. He was of opinion that we should not acknowledge any person "to have an exclusive right to property who has not created it by his skill or labour." Yet "to avoid the greater evil of arbitrarily interfering with the discretion of every man in matters of property" he had, perforce, to tolerate it. He admitted indeed, that absolute right becomes weakened by descent. But he could not interfere with the privilege of the disposal of property by will which, he asserted, is "necessarily connected with the existing forms of domestic life." Against the other type of property which is based on violence and fraudulent cunning, Shelley however had nothing too strong to say. Of this nature, pointed out the poet, is the principal part of the property enjoyed by the aristocrat and the fund-holder. They do not deserve the riches they possess ; and when Shelley, modernist that he was, proposed a capital levy, he was careful to exempt the first type of property from its operations. "If any public emergency should arise, at which it might be necessary to satisfy, by a tax on capital, the claims of a part of the nation by a contribution from such national resources as may, with the least injustice, be appropriated to that purpose, assuredly it would not be on labour and skill, the foundation of all property, nor on the profits and savings of labour and skill, which are property itself, but on such possessions which can only be called property in a modified sense, as have, from their magnitude and their nature, an evident origin in violence and imposture." Thus did Shelley gradually recede away from Godwin under the stress of circumstances.

In one respect, however, Shelley went back to Godwin. He had, in *Prometheus Unbound* rejected the Godwinian theory that human perfection could be attained only through the proper exercise of reason. He represented love, cosmic love, as the one actuating principle' which

can transform the entire universe, abolish all impediments to human progress and bring about the redemption of man and the regeneration of human society. In *A Philosophical View* he reverted to the Godwinian conception. Love was, apparently, too weak a power successfully to cope with "the difficult and unbending realities of actual life." When we study the various steps which a patriot should take for bringing about the regeneration of society, we are at once reminded of Godwin and his insistence on the efficacy of public opinion. Like his preceptor, Shelley was sure that "no law or institution can last if public opinion be decisively against it." Accordingly he wanted to educate that public opinion. He was fully conscious that centuries of tyranny and oppression had instilled into the minds of the common people the insidious poison of fanaticism and error. They had rendered the oppressed masses passive and inert. "The inoperative and unconscious abjectness to which the purposes of a considerable mass of the common people had been reduced," crushed out, as it were, all the manhood in their personality; and, consequently, it is the imperative duty of every patriot and reformer to rouse his fellowmen from this unnatural stupor of ages. "The patriot will, therefore, be the foremost to publish the boldest truths in the most fearless manner, yet without the slightest tincture of personal malignity." He should thus make them fully aware of their present miserable condition and its remedy. In this work of enlightenment, the patriot and reformer should not work alone but "encourage all others to the same efforts and assist them to the utmost of his power with the resources both of his intellect and his fortune." No threat, nor any injury should deter him from his course of action. The frowns of tyrants or the threats of popular fury should be equally despised. He should personally confront them with a bold face and call upon his associates "to despise imprisonment and persecution and lose no opportunity of

Reason as a method  
of human perfection.

bringing public opinion and the power of the tyrants into circumstances of perpetual contest and opposition."

Simultaneously with this active and vigilant system of opposition, the poet recommended the holding of public meetings all over the country to educate and enlighten public opinion and ventilate public grievances. But these meetings should be deliberative rather than demonstrative. They should be small, enabling each person present to take an intelligent part in their proceedings. The Shelleyan patriot should always urge "the necessity of exciting the people frequently to exercise their right of assembly" thus providing a means of "solemnly conveying the sense of large bodies and various denominations of the people in a manner the most explicit, to the existing depositories of power." Such appeals of solemn and emphatic arguments from men of immortal genius, the poet was sure, will appal the enemies of mankind with the "stern spectacle of eternity warning time."

Elsewhere in the same essay the poet became much more explicit. The Godwinian theory of redemption through the illumination of the human intellect is much more fully explained and illustrated in these passages than anywhere else. "The true patriot will endeavour to enlighten and to unite the nation and animate it with enthusiasm and confidence. For this purpose he will be indefatigable in promulgating political truth." Here, as elsewhere in his *Proposals for an Association*, the poet remembered the potency, both for good

Associations.

and for evil, which an organisation by itself possesses. Accordingly to give greater strength and power to the popular cause, he, in direct opposition to Godwin, recommended that the divided friends of liberty should be "rallied round one standard" and made "to forget the subordinate objects with regard to which they differ by appealing to that respecting which they are all agreed." The patriot will, assuredly, "promote such open confederation among men of principle and merit as may tend

to make their intentions and their efforts converge to a common centre." But he will, at the same time (like Shelley in his early youth) "discourage all secret associations which have a tendency, by making the nation's will develop itself in a partial and premature manner, to cause tumult and confusion."

By these methods of enlightenment and systematic opposition, the oppressors, Shelley was confident, would become conscious of their powerlessness and isolation. They would then, reluctantly, "concede some limited portion of the rights of the people." If they did so, Shelley would exhort all right-thinking men to pause until they had gained enough experience to demand more. He would rather gain his object by a process of negotiations lasting over a long period of time than precipitate matters and plunge the entire nation into the throes of a civil war.

Yet acutely conscious though Shelley was of the evil effects of internal commotions and civil war, he did not altogether preclude the necessity of armed resistance. In the days of his youthful enthusiasm the poet might not think of the possibility of such resistance but the experience of his life-time had changed his views on this question. And strange as it may seem to us, he was, in this respect, closely following the doctrines of Godwin. This philosopher had admitted in his *Political Justice* that there can be no doubt of "the justifiableness of a whole nation having recourse to arms if a case can be made out in which it shall be impossible for them to shut out slavery in any other way."<sup>1</sup> Similarly the poet emphatically asserted that when all peaceful means prove ineffectual the oppressed masses have still one weapon left. "We are," maintained Shelley, "always to recollect that we possess a right beyond remonstrance." "It has been

The Right of Insurrection.

<sup>1</sup> *Political Justice*, IV, i.



acknowledged by the most approved writers on the English constitution, which has, in this instance, been merely a declaration of the superior decisions of Eternal Justice, that we possess a right of resistance and the last resort of resistance is undoubtedly insurrection. The right of insurrection is derived from the employment of armed forces to counteract the will of the nation."

There are thus two Shelleys: the Shelley of *Prometheus Unbound* and the Shelley of *A Philosophical View*. The former is an out-and-out idealist, uncompromising in his attitude towards whatever he regards to be an impediment to human progress, while the latter is a realist who wants to come into closer grips with the actual facts of life and, conscious of the limitations of himself and of the universe in which he lives, seeks to temporize and gain practical results.

Of these two Shelleys the first is more real than the second. His utterances in the magic lines of his poetry are more spontaneous and sincere than those of the latter. There is something halting in the tone of *A Philosophical View of Reform* which plainly shows that he was not perfectly at ease when he sought to *temporise* with his earlier opinions. It was not for nothing that the treatise was not published during the life-time of Shelley. It did not occupy in the mind of the poet that prominent place which his other works did. His interest did not last long. It flagged and was stifled in that uncongenial atmosphere of *practical* politics; so much so, that what comes down to us is a mere draft drawn up in a careless, half-hearted manner.

## C

### *Shelley and Godwin—Some Minor Aspects.*

Apart from the fundamental principles which Shelley derived from his study of Godwin there are some very important, though minor, aspects of his political theory, in which we can distinctly trace the influence of his master's ideas.

Military organisations and military exploits, except for self-defence, Godwin could not tolerate. War and Military Organisation. "War and Conquest," he pointed out, "cannot be beneficial to the community. Their tendency is to elevate a few at the expense of the rest, and consequently they will never be undertaken but when the many are the instruments of the few."<sup>1</sup> The so-called glory which urges men to war and conquest, is as erroneous as other incitements based upon a false conception of national prestige and national security. Analysis strips them of all glamour and reveals the grossness of military exploits in all their cruelty. War is unreasonable. It is, according to Godwin, the crudest method for judging disputes. "Because nations were susceptible of a similar weakness (*viz.*, of being liable to error and of suffering their apprehensions of justice to be perverted by a bias in favour of themselves) and could find no sufficient umpire to whom to appeal, war was introduced. Men were induced deliberately to seek each other's life and to adjudge the controversies between them, not according to the dictates of reason and justice but as either should prove most successful in devastation and murder."<sup>2</sup>

<sup>1</sup> and <sup>2</sup> *Political Justice*, V, xvi.

What was, at the first instance, of rare occurrence, resorted to only when every other means for a pacific settlement had failed and exasperation and rage had reached their highest limit, afterwards became frequent and habitual. It was soon converted into a profession and we have, since then, been confronted with the spectacle of "one part of the nation paying another part to murder and be murdered in their stead." The most trivial cause, a supposed insult or a sally of youthful ambition now becomes a sufficient incentive to plunge nations into war and deluge provinces with blood.

The horrors of war cannot, according to Godwin, be adequately described. Let us visit, at least in imagination, a field of battle and we will, at once, be painfully aware of the significance of war. "Here men deliberately destroy each other by thousands, without any resentment against, or even knowledge of, each other. The plain is strewn with death in all its various forms. Anguish and wounds display the diversified modes in which they can torment the human frame. Towns are burnt, ships are blown up in the air while the mangled limbs descend on every side; the fields are laid desolate, the wives of the inhabitants exposed to brutal insult and their children driven forth to hunger and nakedness. It would be despicable to mention, along with the scenes of horror, and the total subversion of all ideas of moral justice they must occasion in the auditors and spectators, the immense treasures which are wrung in the form of taxes from those inhabitants whose residence is at a distance from the scene." <sup>1</sup>

Nor is the influence of a system of military organisation at all salutary, both for those who are subject to its discipline, and those who, though exempted from such discipline, belong to the same community. Artless and inexperienced at the time of enlistment, the soldier, dragged unwillingly from

<sup>1</sup> Political Justice, V, xvi.

his peaceful home into the field of battle, soon becomes a depraved and unnatural being. War with him has degenerated into "a trade by which a man sells his skill in murder and the safety of his existence for a pecuniary recompense." He is brutalised by constantly reverting to the ideals of his profession, ideals of violence, and force which can never conform to righteousness and virtue. He is thus, "cut off from the rest of the community, and has sentiments and a rule of judgment peculiar to himself."<sup>1</sup> The soldier is, of all descriptions of men, the most completely a machine; yet his profession inevitably teaches him something of dogmatism, swaggering and self-consequence.<sup>2</sup> He loses his faith in reason and his very dexterity and skill in arms makes him liable to a certain "obliquity of understanding which these accomplishments are calculated to nourish."<sup>3</sup> Not only so, the other members of the community, being accustomed for a long time to thoughts of murder and desolation, catch the contagion. They have no longer any distaste of violence nor any implicit confidence in reason and righteousness. The nation, to secure its safety, loses its soul.

Even from his early youth, Shelley, was bitter in his denunciation of war and its attendant barbarities; and the arguments that he adduced in favour of his contentions are, more or less strongly, reminiscent of Godwinian theories and Godwinian principles. Like Godwin, the poet was very emphatic in his assertion that war is not, in the least, necessary either for the happiness or the safety of the nation at large. It can never contribute to general happiness, enriching as it does the few at the expense of the many. The rich fatten themselves on the spoils of war, gaining exclusively from the wealth and extension of their nation's boundaries. The poor, on the contrary, Shelley very pertinently pointed out,

<sup>1</sup> Political Justice, V. xix.

<sup>2</sup> Godwin, Enquirer, Essay V.

<sup>3</sup> Godwin, Political Justice, V. xix.

“purchase this wealth at the expense of their blood and labour and happiness and virtue. They die in battle for this infernal cause. Their labour supplies money and food for carrying it into effect ; their happiness is destroyed by the oppression they undergo ; their virtue is rooted out, by the depravity and vice that prevail throughout the army and which, under the present system, is perfectly unavoidable.”<sup>1</sup> And what is their recompense for all this sacrifice ?—mere glory, an elusive thing, “a word, which has often served as a cloak to the ambition and avarice of statesmen.”

The horrors of war left as indelible an impression on the mind of Shelley as it did on that of Godwin. Like his master, the poet also shrank from the disgusting details of concerted murder which goes by the name of war. And throughout his poetical works we get startling glimpses of the terrible sufferings which follow in the wake of military expeditions. The glare of conflagrations, the deafening peals of artillery,

“The falling beam, the shriek, the groan, the shout,  
The ceaseless clangour and the rush of men  
Inebriate with rage ;—”<sup>2</sup>

“the frantic wail of widowed love and the faint moan of the dying warrior”<sup>3</sup>—all reveal a scene too ghastly for human sight to bear. And then dawn discovers a still more harrowing situation :

“.....There tracks of blood  
Even to the forest’s depth, and scattered arms,  
And lifeless warriors, whose hard lineaments  
Death’s self could change not, mark the dreadful path  
Of the outsallying victors : far behind,  
Black ashes note where their proud city stood.”<sup>4</sup>

<sup>1</sup> Shelley, *Address to the Irish People*.  
*Cf. Ibid.*, IV, ll. 55-57.

<sup>2</sup> *Queen Mab*, IV, ll. 43-45.  
<sup>3</sup> *Queen Mab*, IV, 62-67.

Laon of Argolis witnesses a similar scene.—“ In the midst,” says he,

“ I paused, and saw, how ugly and how fell  
O Hate ! thou art, even when thy life thou shedd’st  
For Love.” <sup>1</sup>

With a blanched face he looks upon the horrible sight, he observes how

“ The combatants with rage most horrible  
Strove, and their eyes started with cracking stare,  
And impotent their tongues they lolled into the air,  
Flaccid and foamy, like a mad dog’s hanging ;  
Want and moon-madness and the pests’ swift Bane  
When its shafts smite—while yet its bow is twanging  
Have each their mark and sign—some ghastly stain ! ”

And in the anguish of his heart, the patriot cries out—

“ And this was thine, O war ! of hate and pain  
Thou loathed slave ! ” <sup>2</sup>

War is thurs, “ the statesman’s game, the priest’s delight, the lawyer’s jest and the hired assassin’s trade.” <sup>3</sup>

Nor less conscious was the poet of the demoralising influence of war and its attendant military organisation on the minds of men. The description that he gave of the depraved condition of soldiers bears a very close resemblance to similar passages in Godwin’s *Political Justice*. Like Godwin he was conscious that these poor men are, almost always, dragged unwillingly from their happy homes.

“ They cajole with gold,  
And promises of fame, the thoughtless youth  
Already crushed with servitude : he knows  
His wretchedness too late, and cherishes  
Repentence for his ruin, when his doom  
Is sealed in gold and blood.” <sup>4</sup>

<sup>1</sup> and <sup>2</sup> The Revolt of Islam, VI, xvi and xvii.

<sup>3</sup> Queen Mab, IV, 168-70.

<sup>4</sup> *Ibid*, IV, 190-95.

But soon his nature undergoes a remarkable transformation. And soldiers, as a class, become the sinks and channels of the worst vice, the refuse of society, the dregs of all that is most vile.

“ .....Their cold hearts blend  
Deceit with sternness, ignorance with pride,  
All that is mean and villainous, with rage  
Which hopelessness of good, and self-contempt,  
Alone might kindle.” <sup>1</sup>

They are so far brutalised that they, without a shudder, turn a deaf ear to the groans of their victims and sell their souls

“ For the gross blessings of a patriot mob  
For the vile gratitude of heartless kings,  
And a cold world’s good word—viler still.

Much more graphic, and much more influenced by Godwin is the characterisation of war and its evil influence on the minds of men which we get in *A Philosophical View of Reform*. “When men mourn at funerals,” lamented the poet, “for what do they mourn in comparison with the calamities which they hasten with every circumstance of festivity to suffer and to inflict! Visit in imagination the scene of a field of battle or a city taken by assault, collect into one group the groans and the distortions of the innumerable dying, the inconsolable grief and horror of their surviving friends, the hellish exultation and the unnatural drunkenness of destruction of the conquerors, the burning of harvests and the obliteration of the traces of cultivation” <sup>2</sup> and you will, assuredly, have some idea of the devastations of war. There is, about this passage, an unmistakable Godwinian ring which cannot escape even a casual student of *Political Justice*.

<sup>1</sup> Queen Mab, IV, 182-86.

<sup>2</sup> Queen Mab, V, 211-13.

<sup>3</sup> A Philosophical View of Reform.

Moreover the poet, like his teacher, was very apprehensive lest military habits which had already established itself in the community should be perpetuated. For according to Shelley, and to Godwin as well, "war, though the practice of it under the present state of the human species, may, in some instances, be unavoidable, is an idea pregnant with calamity and vice."<sup>1</sup> Especially pernicious is its effect on the character of the soldiers themselves. "From the moment that a man is a soldier, he becomes a slave. He is taught obedience; his will is no longer, which is the most sound prerogative of men, guided by his own judgment. He is taught to despise human life and human suffering....He is more degraded than a murderer; he is like the bloody knife which has stabbed and feels not: a murderer we may abhor and despise; a soldier, is, by profession, beyond abhorrence and below contempt."<sup>2</sup> As we read this denunciation of military organisation and its evil influence we are at once reminded of *The Enquirer*, *Essay V*, where Godwin puts forth all his strength of sarcasm to heap contempt and ignominy upon the entire military profession.

Equally conscious was Shelley of the evil influence of war on the community at large. "War," he significantly pointed out, "waged from whatever motive, extinguishes the sentiment of reason and justice in the mind. The motive is forgotten, or only adverted to in a mechanical and habitual manner. A sentiment of confidence in brute force and in a contempt of death and danger is considered the highest virtue, when in truth, and however indispensable, they are merely the means and the instrument, highly capable of being perverted to destroy the cause they were assumed to promote."<sup>3</sup> After centuries of insensate militarism, the Great War with its attendant horrors has but recently opened the eyes of men to the truth of what Shelley wrote a hundred years ago.

<sup>1</sup> Political Justice, V, xix.

<sup>2</sup> and <sup>3</sup> A Philosophical View of Reform.



Godwin devoted an entire Book<sup>1</sup> of his *Political Justice* to a consideration of *Opinion as a Subject* of *Political Institution*. He looked at the question from all points of view and arrived at the conclusion that "all which can be asked, on the part of a government, in behalf of morality and virtue, is a clear stage upon which for them to exert their own energies and perhaps some restraint, for the present, upon the violent disturbers of the peace of society so that the efforts of these principles may be allowed to go on uninterrupted to their genuine conclusion."<sup>2</sup> He was thus an out-and-out supporter of absolute freedom of thought and expression.

He was fully conscious of the weapon, terrible in its efficacy for stifling independent speculation, which the law of libel puts into the hands of established authority. These rules and regulations, he very pertinently pointed out, are always "a continual instrument of usurpation and injustice to the ruling party." Couched as they are in an ambiguous language they are liable to very wide interpretation and, the interest of the judge and the prosecutor being, in the peculiar circumstances of the case, the same, the accused is placed in a very dangerous situation. He can expect little justice from them. "No reasonings will appear fair to them but such as are futile. If I speak with energy, they will deem me inflammatory; and if I describe censurable proceedings in plain and homely but pointed language, they will cry out upon me as a buffoon." Moreover, expression of opinion is hedged round by so many restrictions as to make it very difficult, if not impossible, for any thinker to urge his point of view effectively. The writer must be logical and not eloquent. Though keenly alive to the absurdity of the established opinion he must restrain his sense of humour and carefully desist from producing feelings of ridicule in his readers. "It were better," exclaimed Godwin, "to forbid me

<sup>1</sup> Book VI.

*Political Justice*, VI, i.

the discussion of the subject altogether than to forbid me to describe it in the manner I conceive to be most suitable to its merits." <sup>1</sup>

The same difficulties impressed themselves on the mind of Shelley. He was literally amazed that his countrymen should still boast of the "Liberty of the Press," when they saw it "successfully muzzled and outraged by the lawyers of the Crown"; and proceeded to analyse the interpretation given to the word "libel" by legal authorities. Like Godwin, he very significantly pointed out that the terms which are specially associated with libel are too vague and indefinite. "Is not law with them," protested the poet, "as clay in the potter's hand?" And he proceeded to describe how "it is impossible to express yourself displeased at certain proceedings of Government, or the individuals who conduct it without uttering a reproach. We cannot honestly point out a proper remedy of grievances with safety, because the very mention of these grievances will be reproachful to the personages who countenance them; and therefore will come under a definition of libel." Under these circumstances the poet was entirely justified when he asked, "Is there anything like the liberty of the press in restrictions so positive yet pliant as these?" Naturally he came to the inevitable conclusion that "the little freedom we enjoy in this most important point comes from the clemency of our rulers, or their fear, lest public opinion, alarmed at the discovery of its enslaved state, should violently assert a right to extension and diffusion." <sup>2</sup>

Equally unreasonable, according to Godwin, is the system of religious conformity. "One of the most striking instances of the injurious effects of the political patronage of opinion as it at present exists in the world, is to be found in the system of religious conformity." It is pernicious. It takes away from men their liberty of thought and creates a

concourse of hypocrites. Men are fettered at the very outset by having a code of propositions put into their hand, in a conformity to which all their enquiries must terminate; and they are further taught, indirectly though it be, that although they may not believe in certain principles, they may subscribe to them provided they refrain from questioning their truth. From a discussion of these aspects of the question, Godwin finally came to hold that "if public worship be conformable to reason, reason without doubt will prove adequate to its vindication and support. If it be from God, it is profanation to imagine that it stands in need of the alliance of the state."<sup>1</sup>

His arguments receive greater weight from a consideration of more fundamental principles. Godwin was a bitter opponent of the political superintendence of all types of opinion. From the standpoint of an utilitarian thinker he was very careful to point out that society in its corporate capacity, being liable to be fettered by the prejudices and weaknesses of its leaders, cannot always arrive at a just and wise conclusion and as such it should not be allowed to control opinion. Nor can it improve opinion, for opinions are based upon the perceptions of the understanding which cannot be coerced into conformity. Its regulations cannot regulate in the proper sense of the term, specially if they directly contradict the propensities and the spirit of the nation.

Moreover such attempts at regulating public opinion is very harmful to society. It checks the progress of knowledge and effectively retards reforms. "Considered with a view to the introduction of any favourable changes in society it is altogether impotent. But though it be inadequate to, change, it is powerful to prolong." Not only so, such superintendence of public opinion produces mental torpor and imbecility. "He that, in any degree consigns to another the

<sup>1</sup> Political Justice, VI, ii.

task of dictating his opinions and his conduct, will cease to enquire for himself or his enquiries will be languid. He will accept opinions without understanding them, learning them by rote as it were." In fact, "a system inviting men to the profession of certain opinions by the proffer of a reward and deterring them from a severe examination of their justice by penalties and disabilities does not content itself with habitually unnerving the mind of the great mass of mankind through all its ranks but provides for its own continuance by debauching and terrifying the few individuals, who, in the midst of the general emasculation, might still retain their curiosity and love of enterprises."<sup>1</sup>

Equally strong was Shelley in his condemnation of religious establishments and the system of religious conformity. He was specially bitter against disabilities which are inflicted upon men on account of their religion. "What benefit can we derive from persecuting men for their religious opinions?" asked the poet. "Why do we persecute them?—to make them believe as we do? Can anything be more barbarous or foolish?" And like his master Godwin, the poet was emphatic in his assertion that coercion or the imposition of religious tests can only create hypocrites and not believers. "Although we may make people say they believe as we do, they will not in their hearts do any such thing, indeed they cannot; this devilish method can only make them false hypocrites." Belief, according to Shelley and Godwin alike, is an involuntary act based upon a perception of truth. It cannot be imposed upon any individual. No amount of persecution can really alter a man's opinion. It is altered only when you persuade him that your opinion is right and true, and this can be done by an appeal to his reason alone, not by anything else.<sup>2</sup> Strongly imbued with the idea that rewards and punishment can have reference

<sup>1</sup> Political Justice, VI, i.

<sup>2</sup> Shelley, Address to the Irish People.

only to voluntary acts, Shelley could not possibly understand "how merit or demerit can be attached to what is distinct from that faculty of the mind whose presence is essential to their being."<sup>1</sup> He, consequently, considered all disabilities suffered on account of faith to be unjustifiable. "To take away a man's rights and privileges, to call him a heretic or to think worse of him, when, at the same time, you cannot help owning that he has committed no fault is the grossest tyranny and intoleration."<sup>2</sup> And in terms strongly reminiscent of Godwin he concluded: "Either the Christian religion is true or it is false. If true, it comes from God, and its authenticity can admit of dispute and doubt, no further than its Omnipotent Author is willing to allow;—if true, it admits of rational proof and is capable of being placed equally beyond controversy."

Unlike Godwin, however, Shelley did not look at the question from the utilitarian standpoint at all. He did not argue whether it is possible for society to regulate public opinion or whether even if it is possible, it checks human progress or not. He did not expatiate upon the pernicious influence of such censorship upon the mental development of man. On the contrary, he took his stand on far other principles—principles more idealistic in nature than what are suggested by Godwin in his *Political Justice*. But even when he viewed the whole problem from an idealistic standpoint, he could not escape the influence of his master. Godwin had, time and again, enunciated the theory that "truth and virtue are competent to fight their own battles. They do not need to be nursed and patronised by the hand of power."<sup>3</sup> Taking his cue from him, his disciple Shelley was very emphatic in his view that "that which is false will ultimately be controverted by its own falsehood. That which is true needs but

<sup>1</sup> Shelley, Letter to Lord Ellenborough.

<sup>2</sup> Shelley, Address to the Irish People.

<sup>3</sup> *Political Justice*, VI, i.

publicity to be acknowledged. It is ever a proof that the falsehood of a proposition is felt by those who use power and coercion, not reasoning and persuasion, to procure its admission." Again: "Falsehood skulks in holes and corners, 'it lets I dare not wait upon I would, like the poor cat in the adage,' except when it has power, and then, as it was a coward, it is a tyrant; but the eagle eye of truth darts through the undazzling sun-beam of the immutable and just, gathering thence wherewith to vivify and illuminate a universe!"<sup>1</sup>

The second fundamental principle on which Shelley based all his arguments in favour of toleration is the inherent right of man to think and express his thoughts. In his case also he was profoundly influenced by Godwinian doctrines. One of the reasons why *Political Justice* denounces the censorship of public opinion is that it prevents the free use of reason and produces intellectual inertia.<sup>2</sup> And throughout the treatise the one principle on which Godwin laid special emphasis is the intellectual nature of man and his duty and right to develop it. No theory and no ideal can even receive the approbation of this *thinker* unless and until it passes this test. In Shelley also, we find a similar insistence on the important part that reason plays in the development of human character. "Man has a heart to feel, a brain to think, and a tongue to utter. The laws of his moral as of his physical nature are immutable, as is everything of nature; nor can the ephemeral institutions of human society take away those rights, annihilate or strengthen the duties that have for their basis the imperishable relations of his constitution."<sup>3</sup> Man has, therefore, a right to unrestricted liberty

<sup>1</sup> Shelley, Letter to Lord Ellenborough. This passage is closely modelled on what Shelley said in his *Proposals for an Association*:—"The eye of virtue, eagle-like, darts through the undazzling beam of eternal truth, and from the undiminished fountain of its purity, gathers wherewith to vivify and illuminate a universe."

<sup>2</sup> *Political Justice*, VI, i.

<sup>3</sup> Shelley, *Proposals for an Association of Philanthropists for Ireland*.

of discussion.<sup>1</sup> He has "not only a right to express his thoughts but it is his duty to do so;"<sup>2</sup> and, consequently, Government, being "a delegation of individuals for the purpose of securing their rights, can have no undelegated power of restraining the expression of their opinion."<sup>3</sup> The poet lamented indeed that credulity and fanaticism had, for ages, stifled the independent speculations of man, that "implicit faith and fearless enquiry have, in all ages, been irreconcilable enemies;"<sup>4</sup> and he recommended the widest toleration of opinion, holding that no person is accountable for his belief or unbelief if his actions are virtuous and moral.<sup>5</sup>

The poet reached the height of his eloquence in his address to Lord Ellenborough on the question of the trial and conviction of Mr. Eaton and his words tingled with righteous indignation when he appealed to the Noble Lord to consider the dire consequences of his legal interpretation. "I will demand," exclaimed Shelley, "if that man is not rather entitled to the respect than the discountenance of society, who, by disputing a received doctrine, either proves its falsehood and inutility, thereby aiming at the abolition of what is false and useless, or gives to its adherents an opportunity of establishing its excellence and truth.—Surely this can be no crime. Surely the individual who devotes his time to fearless and unrestricted enquiry into the grand questions arising out of our moral nature, ought rather to receive the patronage, than encounter the vengeance, of an enlightened legislature. I would have you know, my Lord, that fetters of iron cannot bind or subdue the soul of virtue. From the damps and solitude of its dungeon, it ascends free and undaunted, whither thine,

<sup>1</sup> Shelley, Declaration of Rights, XII.

<sup>2</sup> *Ibid*, XIII.

<sup>3</sup> *Ibid*, XXII.

<sup>4</sup> Shelley, Letter to Lord Ellenborough.

<sup>5</sup> Cf. Shelley, Address to the Irish People,

from the pompous seat of judgment, dare not soar. I do not warn you to beware lest your profession as a Christian should make you forget that you are a man ;—but I warn you against festinating that period, which, under the present coercive system, is too rapidly maturing, when the seats of justice shall be the seats of venality and slavishness and the cells of Newgate become the abode of all that is honourable and true.”



## D

### *Godwin's Opinion on Marriage.*

The following quotations illustrate Godwin's attitude towards marriage and incidentally show how Shelley echoes him:—

“Another article which belongs to the subject of co-operation, is cohabitation. The evils attendant on this practice are obvious. Cohabitation is inimical to that fortitude which should accustom a man, in his actions as well as in his opinions, to judge for himself and feel competent to the discharge of his own duties. Add to this, that it is absurd to expect the inclinations and wishes of two human beings to coincide through any long period of time. To oblige them to act and to live together, is to subject them to some, inevitable portion of *thwarting, bickering and unhappiness.....*”

“The evil of marriage, as it is practised in European countries extends further than we have yet described. The method is, for a thoughtless and romantic youth of each sex to come together, to see each other for a few times and under circumstances full of delusion, and then to vow eternal attachment. What is the consequence of this? In almost every instance they find themselves deceived. They are reduced to *make the best of* an irretrievable mistake. They are led to conceive it their wisest policy to shut their eyes upon realities, happy if, by any perversion of intellect, they can persuade themselves that they were right in their first crude opinion of their companion. The institution of marriage is a system of *fraud*, and men who carefully mislead their judgments in the daily affair of their life, must always have a crippled judgment in every other concern. We ought to *dismiss*

our mistake as soon as it is detected ; but we are taught to cherish it. We ought to be incessant in our search after virtue and worth ; but we are taught to check our enquiry and shut our eyes on the plainest facts....”

“The abolition of marriage in the form now practised will be attended with no evils... It really happens in this, as in other cases, that the positive laws which are made to restrain our vices, irritate and multiply them. Not to say, that the same sentiments of justice and happiness, which, in a state of equality would destroy our relish for expensive gratifications, would decrease our inordinate appetites of every kind and lead us universally to prefer the pleasures of intellect, to the pleasures of sense....”

“Certainly no ties ought to be imposed on either party, preventing them from *quitting* the attachment, whenever their judgment directs them to *quit* it.”

*Political Justice*, VIII, viii.



# “VINAYA-SAMUKASE” IN ASOKA’S BHABRU EDICT; ITS IDENTIFICATION

BY

SAIENDRANATH MITRA

*Vinaya-samukase*, as is well-known to Asokan scholars, is the title of the first of the seven select Buddhist tracts recommended by Asoka in his Bhābrū Edict. Various suggestions have been offered from time to time by different scholars regarding its identification, none of which, however, have so far proved convincing. In their treatment of the subject, they have either indulged in guess-work or been guided by extraneous evidence only, and none of them have seriously tried to take the cue from the text of the Bhābrū Edict as a whole. Thus, Edmunds (*Buddhist Bibliography*, San Francisco, 1904), who identified *Vinaya-samukase* with the *Dhammacakkapavattana-sutta*, the First Sermon of the Buddha, looked mainly to the correspondence of the inscriptional term *samukase* with the Pāli *sāmuḁkkaṃsika* occurring in *sāmuḁkkaṃsika dhammadesanā*, an expression applied to the Four Noble Truths, the subject-matter of the First Sermon; he totally ignored the disparity between *vinaya* of the inscription and *dhammadesanā* of the Pāli. Long ago, the late Prof. Rhys Davids had sought to identify the tract with the *Pātimokkha*, on the ground that it constituted the *Vinaya par excellence*. Ten years back, I myself had suggested an identification (IA, xlviii, 1919, pp. 8-11) with the *Sappurisa-sutta* of the Majjhima Nikāya, on the basis of a somewhat loose similarity of implication between the inscriptional term and the expression *vinayadharattena attānaṃ ukkaṃseti* of that Sutta. D. R. Bhandarkar (*Aśoka*, pp. 86-88) surmises that the tract contemplated by *Vinayasamukase* is the *Tuvaṭṭaka-sutta* of the Sutta-nipāta, on the strength of the occurrence there of the words *patipadā* and *pātimokkha* and further

because it happens to be one of the four Suttas mentioned in a stock-list in Buddhaghosa's *Visuddhimagga*, three of which can be clearly identified with three of the *Dhamma-pariyāyas* mentioned by Asoka. Ingenious though his suggestion is, his identification is not in keeping with the sense of the word *Vinayasamukase*, which, as I shall show, can be best interpreted by a close parallel that exists in Pāli literature. Barua suggested (*JRAS*, 1915, p. 809) that the *Sigālovāda-suttanta* of the *Dīgha Nikāya* was the discourse implied by *Vinaya-samukase*, mainly on the following grounds:—(i) that the Suttanta has been traditionally known as *gihivinaya*, (ii) that it characterises itself as *ariyassa vinaya*, and (iii) that it presupposes the principal tenets of Asoka's Dhamma. But, although the *Sigālovāda-suttanta* may account for some of the tenets of that Dhamma, it does not fully comprehend the purpose of the Bhābrū Edict, which, as a matter of fact, is addressed to the Saṅgha, and, as such, is concerned with bhikkhus and bhikkhunīs first and with gihīs—upāsakas and upāsikās—next. Again, if it be suggested that the *Anumāna-sutta* of the *Majjhima Nikāya* is the right text, on the ground that it was known to the ancients as *bhikkhu-vinaya*<sup>1</sup>, even then it may be pointed out that it would equally fall short of the purpose of the Bhābrū Edict, for while the Sutta applies to bhikkhus and bhikkhunīs, it is not concerned with upāsakas and upāsikās.

I have now come across a tract in the *Aṅguttara Nikāya* (Pt. I, *Atthavasa-vagga*, §§ 1-2, pp. 98-100) which is not only in consonance with the real purpose of the Bhābrū Edict, but also admirably answers to Asoka's *Vinaya-samukase* for more reasons than one. First, it is pre-eminently a Vinaya tract, as is clearly proved by its colophon which reads *Vinaye peyyālaṃ niṭṭhitam*.<sup>2</sup> Secondly, it is the only tract discovered in the Pāli canon that formulates a *mātikā* to co-ordinate the promiscuous Vinaya discourses. Thirdly, it supplies the textual

<sup>1</sup> See *Commentary*.

<sup>2</sup> See *Aṅguttara* (P.T.S.), Pt. I, p. 100, fn. 2.

basis of the Bhābrū Edict, both as regards its wording and its purpose. So far as textual correspondence goes, the following similarities are remarkable :

BHĀBRŪ.

AṄGUTTARA.

- |  |   |
|--|---|
| <p>1. Priyadasi lājā Māgadhe saṃghaṃ<br/>abhivādetūnaṃ āhā apābādhatam<br/>ca phāsu-vihālatam cā<sup>1</sup>(l. 1).</p>  | <p>1. Tathāgatena...paññattam....saṅg-<br/>hasuṭṭhutaṃ saṅgha-phāsutāya.</p>  |
| <p>2. Vidite ve bhaṃte āvatake hamā<br/>Budhasi Dhammasi Saṃghasi ti<br/>gālave caṃ prasāde ca (l. 2).</p>   | <p>2. Appasannānaṃ pasādāya pasan-<br/>nānaṃ bhiyyo bhāvāya.</p>  |
| <p>3. E cu kho bhaṃte hamiyāye diseyā<br/>'hevaṃ sadhamme cila-ṭṭhitike<br/>hosati ' ti (ll. 3-4).</p>   | <p>3. Dve 'me bhikkhave atthavase<br/>paṭicca Tathāgatena sāvakānaṃ<br/>sikkhāpadaṃ paññattam.....<br/>tiṇavattārako paññatto.....<br/>saddhammaṭṭhitiyā vinayānug-<br/>gahāya.</p> |
| <p>4. Etāni bhaṃte dhamma-paliyāyāni<br/>ichāmi kiṃti bahuke bhikhu-pāye<br/>cā bhikhuniye cā abhikhiṇaṃ<br/>suneyu cā upadhālayeyū cā.<br/>hevaṃmevā upāsakā cā upāsikā<br/>cā (ll. 6-8).</p> | <p>4. Bhikkhūnaṃ phāsuvihārāya.....<br/>.....gihināṃ anukampāya.</p>  |

It is needless to dilate upon the textual correspondence, which is striking. What is further interesting is that there is a close kinship of form and meaning between *vinaya-samukase* of the inscription and *vinayānuggaha* of the Pāli passage (No. 3 above). *Samukase* is the Asokan-Māgadhi counterpart of Pāli

<sup>1</sup> Taken by itself, we can quite appreciate Barua's suggestion (*JRAS*, 1915, p. 809), namely, that the statement tallies with that in the Mahāparinibbāna-suttanta (*Dīgha* II, p. 72), which reads : "Rājā bhante Māgadho Ajātasattu Vedehiputto Bhagavato pāde sirasā vandati, appābādham appātaṅkam lahuṭṭhānaṃ balaṃ phāsu-vihāraṃ pucchati." But it must be remembered that it is the well-being of the Buddha, and not of the Saṅgha, that is the question in the *Dīgha* passage, whereas the *Aṅguttara* tract prescribes for the well-being of the Saṅgha (*saṅgha-suṭṭhutaṃ saṅgha-phāsutāya*), and, as such, is quite appropriate and more closely related to the Bhābrū passage.

*samukkamso* (Skt. *saṃ + utkarṣaḥ*),<sup>1</sup> 'turning up, drawing up, properly,' 'sifting'; and *anuggaha*<sup>2</sup> (=Skt. *anu + grah*) means 'taking up.' It is clear that the words are synonymous. *Vinaya-samukase*, therefore, means 'taking up (i.e., following the rules) of the Vinaya,' in other words, 'proper sifting or comprehension of the Vinaya.'

The rationale of the proposed identification will be clear when we consider that the seven tracts recommended in the Bhābrū Edict were those passages which, in the opinion of Asoka, were of fundamental importance for the long duration of Buddhism and the well-being of the whole Buddhist community, and further, that just as the Rathavinīta-sutta of the Majjhima Nikāya, identified with the *Upatisa-pasine* of Asoka, foreshadows the character of Buddhism in Buddhadatta's *Abhidhammāvatāra* and Buddhaghosa's *Visuddhimagga*, even so does the Aṅguttara tract on Vinaya, which is now identified with *Vinaya-samukase*, adumbrate the form of the Vinaya which we possess at present. In other words, the Vinaya tract in the Aṅguttara marks a stage in the development of Buddhist literature which is prior to the development of the texts of the Vinaya as a distinct division of the canon, and this is borne out by the tradition that Vinaya grew out of the collection of Sutta materials.

For facility of comparison, the full text of the Bhābrū Edict and of the Vinaya tract in the Aṅguttara are appended hereto :—

## I

### THE BHĀBRŪ EDICT.

- 1 Pr[i]yadas[i] l[ā]jā Magadhe saṃghaṃ abhivāde[tū]naṃ āhā  
ap[ā]bādhatam ca phāsu-vihālatam cā[.]

<sup>1</sup> See Childers' *Pali Dictionary*, sub voce 'sāṃukkamsikā,' where *ukkamsikā* has been explained as *uddharitvā gahitā*. As such, it becomes the same as *uggahitā*.

<sup>2</sup> See P.T.S. Dictionary, sub voce.

- 2 Vidite v[e] bhamte āvatake h[a]mā Budhasi Dhammasi  
Samghasī ti gālave cam prasāde ca [.] E keci bhamte
- 3 Bhagavatā Buddhē[na] bhāsīte sarve se subhāsīte vā [.] E cu  
kho bhamte hamīyāye diseyā 'hevam sadhamme
- 4 cil[a-ṭhi]tīke hosatī' ti alahāmi hakaṃ tam v[ā]tave [.] Imāni  
bhamt[e dha]mma-paliyāyāni [:] Vinaya-samukase[.]
- 5 Aliya-vasāni [,] Anāgata-bhayāni [,] Muni-gāthā [,] Moneya-sūte  
[,] Upatisa-pasine [,] e cā Lāghulo-
- 6 vāde musā-vādam adhigīya Bhagavatā Buddhena bhāsīte [.]  
Etāni bhamte dhamma-paliyāyāni ichāmi
- 7 kiṃti bahuke bhikhu-[p]āye cā bhikhuniye c[ā] abhikhinam  
sun[e]yu cā upadhāl[a]yeyū cā [.]
- 8 hevammevā upāsakā cā upāsikā cā [.] Eteni bhamte imam likhā-  
[pa]yāmi abhipretam me jānamtū ti [.]

## II

### THE ATTHAVASA-VAGGA [§§ 1-2].

[AṄGUTTARA-NIKĀYA, PART I. DUKA-NIPĀTA, xviii, 1-2, pp. 98-100.]

1. Dve 'me bhikkhave atthavase paṭicca Tathāgatena sāvakānaṃ  
sikkhāpadam paññattam.<sup>1</sup>

Katame dve?

Saṅgha-suttūthātāya <sup>2</sup> saṅgha-phāsūtāya :...pe...

Dummaṅkūnaṃ puggalānaṃ niggahāya pesalānaṃ bhikkhūnaṃ phāsu-  
vihārāya :...pe...

Diṭṭhadhammikānaṃ āsavānaṃ <sup>3</sup> verānaṃ vajjānaṃ bhayānaṃ  
akusalānaṃ dhammānaṃ samvarāya samparāyikānaṃ āsavānaṃ <sup>4</sup> verānaṃ  
vajjānaṃ bhayānaṃ akusalānaṃ dhammānaṃ paṭighātāya :...pe...

Gihīnaṃ anukampāya <sup>5</sup> pāpicchānaṃ pakkhupacchedāya <sup>6</sup> :...pe...

<sup>1</sup> The Commentary explains : *sikkhā-kotṭhāso ṭhapito*.

<sup>2</sup> *Saṅghassa suttūthū bhāvāya*, 'suttūthū bhante' ti vatoḍ sampāpicchanatthāyā ti attho (Com.). From *Saṅgha-suttūthātāya* down to *paṭighātāya*, cf. *Ang. Pt.* V, p. 70 (xxxi, 2-3).

<sup>3</sup> *Diṭṭhadhamme imasmim yeva attabhāve vīṭikkama-paccāyā paṭiladdhānaṃ vadha-*  
*•bāndhana-garahādīnaṃ dukkha-dhamma-saṅkhātānaṃ āsavānaṃ* (Com.).

<sup>4</sup> *Tathārūpānaṃ eva āpāyika-dukkha-saṅkhātānaṃ samparāye uppajjanaka-āsavānaṃ*  
*ca* (Com.).

<sup>5</sup> *Gihīsu ujjhāyantesu paññatta-sikkhāpadam gihīnaṃ anukampāya paññattam nāma*  
(Com.).

<sup>6</sup> 'Pāpicchā pakkham nissāya saṅgham bhindeyyum' iti tesam pakkhacchedanatthāya  
(Com.).



Appasannānaṃ pasādāya pasannānaṃ bhiyyo bhāvāya:...pe...  
Saddhammatṭhitiyā vinayānuggahāya.<sup>1</sup>

Ime kho bhikkhave dve atthavase paṭicca Tathāgatenā sāvakanāṃ  
sikkhāpadam paññattan ti.

2. Dve 'me bhikkhave atthavase paṭicca Tathāgatenā sāvakanāṃ  
pātimokkhaṃ<sup>2</sup> paññattam.....pe.....[as in § 1].  
patimokkhuddesū paññattā „  
pātimokkha-ṭhapanam<sup>3</sup> paññattam „  
pavāraṇā paññattā „  
pavāraṇa-ṭhapanam paññattam „  
tajjaṇiyakammaṃ paññattam „  
nissayakammaṃ paññattam „  
pabbājanīyakammaṃ paññattam „  
paṭisāraṇīyakammaṃ<sup>4</sup> paññattam „  
ukkhepanīyakammaṃ paññattam „  
parivāsādānaṃ paññattam „  
mūlāya paṭikassanaṃ paññattam „  
mānattadānaṃ paññattam „  
abbhānaṃ paññattam „  
vosāraṇīyam paññattam „  
nissāraṇīyam paññattam „  
upasampadā paññattā „  
ñattikammaṃ paññattam „  
ñattidutiyakammaṃ paññattam „  
ñatticatutthakammaṃ paññattam „  
appaññatte paññattam „  
paññatte anuppaññattam „  
sammukhā-vinayo<sup>5</sup> paññatto „

<sup>1</sup> *Pañcavidhassāpi vinayassa anugañhanatthāya* (Com.). Cf. *Vin.* III. 21. See also *Ang.*, Pt. V, p. 70, where the commentator understands by *vinayānuggahāya* nothing but the whole Vinaya : *sikkhāpada-paññattiyā sati-saṃvāra-vinayo pahāna-vinayo samatha-vinayo paññatti-vinayo ti catubiddha-vinayo anuggahito hoti upatthambhito sūpatthambhito, tena vuttam vinayānuggahāyā ti.*

<sup>2</sup> *Duvidham pātimokkham, bhikkhu-pātimokkham bhikkhunī-pātimokkham* (Com.).

<sup>3</sup> See *Ang.*, Pt. V, p. 70 (xxi. 4).

<sup>4</sup> *Gihīnaṃ akkosakassa Sudhammattherassa paṭisāraṇīyakammaṃ* (Com.). Sudhamma, who had his own reasons to rebuke the gihis, was asked by the Buddha to beg pardon of those gihis, and the procedure of begging such pardon of householders came to be known as *paṭisāraṇīya-kamma*.

<sup>5</sup> For this and the succeeding items, cf. *Majjhima Nikāya*, II, pp. 245-251 (*Sāma-gāma-sutta*), and *Vinaya*, II. 89.

sati-vinayo	paññatto.....pe.....[as in § 1].
amūlha-vinayo	paññatto „
paṭiññātakaraṇaṃ	paññattaṃ „
yebbhuyyasikā	paññattā „
tassapāpiyyasikā	paññattā „
tiṇavattthārako	paññatto „

Katame dve?

Saṅgha-suṭṭhutaṃ saṅgha-phāsutāya:...dummaṅkūnaṃ puggalaṇaṃ  
niggahāya pesalānaṃ bhikkhūnaṃ phāsuviḥārāya..... [as in § 1].  
Ime kho bhikkhave dve atthavase paṭicca Tathāgatena sāvakānaṃ tiṇa-  
vatthārako paññatto ti.

Vinaye peyyālaṃ niṭṭhitaṃ.<sup>1</sup>

<sup>1</sup> This occurs as an additional expression in the Phayre MS. (in Burmese writing), in the India Office Library.

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# STUDIES IN JĀTAKAS

## CHAPTER I.

### SECTION I.

*The Jātaka Chronology : Epic, Paurāṇika and Vedic traditions compared with those of the Jātakas ; a criticism of their merits, etc.*

One of the essential problems, with which we ought to concern ourselves in a work on political history, is undoubtedly the problem of chronology. Nobody, who has the least familiarity with the Buddhist Birth-stories, need be told what a disillusionment will await him, if he expects anything like a systematic chronological framework from such a class of literature. All that a careful and patient researcher can reasonably expect to discover, is a number of clues, hints, or data only, bound to be somewhat vague and incoherent in most cases, which may, however, prove really valuable in the rearrangement of the loose and detached facts of political history, supplied by tradition, on a truly scientific basis. It is not difficult to see that the kings and princes, mentioned in the Jātaka literature, did not belong to a single period of time, but that they were often wide apart from one another in respect of age. Thus several chronological strata are only dimly recognisable in them, if we take the help of the traditions, embodied in the Vedic and Paurāṇika literatures, though the historical value of the latter may always be questioned, not without some reason, by all scholars who are aware of the fanciful and imaginative character of most of our ancient literary works. We do not deny that the merits of our findings in this respect must be of a dubious character, as we cannot verify the indigenous literary evidences of this period by the application of such comparatively sure tests as, for instance, are furnished by

epigraphy and the accounts of foreign travellers. Nevertheless, we firmly hold that an investigation into the political history of the far-off ages may not be altogether fruitless, though unfortunately in this connection there is no other alternative than to exploit literary evidence as our only source of information. The most important reason why Indian literary materials, so far as historical purposes are concerned, are generally held in disfavour by scholars, is that the dates of the composition of most of the works which represent ancient tradition, are either unknown, or are subjects of keen speculation, often devoid of any positive data to help in our investigations. In India tradition is quickly formed, but unfortunately it is rarely preserved in its original shape. It goes on receiving accretions from age to age, so that ultimately a great gulf is created between truth and its representation, between the original tradition and the bewildering forest of accumulated wisdom in which it gradually loses itself. The Jātaka texts are not an exception to this general rule. The present form in which we get them is a sort of commentary, a literary manipulation which may have grown out of the labours of a certain scholar or scholars in the 5th century A.D. or even later. (See Prof. Winternitz's article on the Jātakas, *Encyclopædia of Religion and Ethics*, Vol. VII.) But it is indeed not a small consolation to know that certain portions in the present compilation of the Jātaka texts may be almost definitely pointed out in a general way as being the oldest, the nuclei to which later additions and embellishments have been bodily introduced. Even Dr. Winternitz who holds quite a moderate view with regard to the antiquity of the Buddhist Jātakas has been forced in the face of archæological evidence of a compelling character to admit that there can be no doubt, whatsoever, that in spite of its later date the commentary has made use of very old materials. "At any rate it can be proved that already in the 3rd or 2nd century B. C., some of the Jātaka stories were

'told just as we find them in our Jātaka commentary" (E. R. E., Vol. VII, p. 492). Even some of the longest and latest of the Jātaka stories 'were already selected for illustration on the bas-relief of the 3rd century B. C.' Now, if certain stories had already attained such a degree of celebrity and prominence in the 3rd century B.C. that they could be easily selected as fit themes for artistic representation on stone in that age, it will be reasonable to hold that they had been familiar to the people for a fairly long period of time. Under these circumstances the statement that 'the Buddha taught both by sūtras and stanzas and by legend and Jātakas,' which we come across in the Saddharma Puṇḍarīka (S. B. E., XXI, p. 44, II. 44) may be regarded as largely founded in fact. Those elements in a Jātaka story, however, which admittedly belong to a subsequent period of our history, I mean those elements which go to the making of its outer framework, as defined by Prof. Rhys Davids, should not be assigned to the same position of importance as the *atītavatthu* portions constituted by gāthās and prose-commentaries which are decidedly much older. It seems that no new evidence has so far been adduced to antagonise the view, held by Prof. Rhys Davids, that the political and social conditions, depicted in the Jātakas, 'refer for the most part to the state of things that existed in N. India in or before the Buddha's time' (Buddhist India, p. 207). According to Dr. Bühler also the Jātakas 'do not describe the condition of India in the 3rd or 4th century B. C., but an older one' (Proceedings of the Royal Academy at Göttingen, 1897 and 1901, Bud. India, p. 202). It is needless to refer to Richard Fick in this connection, for, it is well-known that his luminous work on the social organisation in Buddha's time is based almost entirely on the evidence of the Jātaka stories. It should, however, be mentioned in this connection that the tradition recorded in the *atītavatthu* portions of the Jātaka texts apparently relate not to the time of the Buddha, but to a more ancient

chronological stratum of our history. It is difficult to believe that the past tradition has been preserved in its original form and that it was not reshaped and modified by the general outlook of the Buddha's age. We must admit that in the absence of the oldest literary forms of the Jātaka stories which may have been safely assigned to the 6th century B.C. or earlier, our estimate of the present texts as a source of history for the pre-Buddha period, should be, to say the least, extremely moderate. We should not also forget the real distinction that subsists between folklore and history although it is undeniable that valuable historical data, as in the case of the Jātaka stories, may be often discerned in the former.

The dynastic portions in the Purāṇas are believed by some scholars (Pargiter, *Dynasties of the Kali Age*, pp. x-xi) to have been constituted by *ślokas*, originally composed in Prakrit, or in Pāli, 'either originally or perhaps more probably by conversion.' This theory may usefully serve as the starting-point of a comprehensive enquiry into the entire body of ancient Indian tradition, which was originally current in popular literary forms, but which was added to, modified or transformed by successive schools of writers suiting the requirements of the different ages and in conformity with divergent ideals, sectarian or national. In this chapter we propose to confine our attention to the Pāli tradition embodied in the Buddhist Jātakas alone and point out its kinship to matters of an allied character to be found in the Purāṇas, the epics, etc. We find that "famous kings in the epics and Purāṇas were Māndhātṛ, Hariscandra, Sagara, Bhagīratha, Daśaratha and Rāma of Ayodhyā; Śaśabindu and Arjuna Kārtavīrya among Yādavas; Duṣyanta, Bharata, Ajamiḍha, Kuru and Sāntanu among Pauravas; Janhu and Gādhi of Kānyakubja; Divodāsa and Pratardana of Kāśī; Vasu Caidya of Cedi and Magadha; Marutta, Āvikṣita and Trṇabindu of the Vaiśāla kingdom; and Uśīnara and Śivi of the Panjab Ānavas." (Pargiter's *Ancient Indian*

Historical Tradition, pp. 6-7.) And again, "eulogistic ballads are found as those in praise of Arjuna Kārtavīrya, etc.," in the Purāṇas (*ibid*, pp. 15-1). Now, let us see how many of these names are to be found in the Jātakas. Ajjuna of the thousand arms is mentioned in the Sarabhaṅga Jātaka, No. 522, Samkicca Jātaka, No. 530, and Bhuridatta Jātaka, No. 543.

References to Sagara, Dujipa, Bhagirasa, Uśīnara, Puthujjana, Śivi, Vessamitta and Yamataggi are also available (see Appendix).

Some famous Kings  
of the past.

Cecca, 'who once could tread the air,' mentioned in the Samkicca Jātaka, No. 530, and also alluded to in the Cetiya Jātaka, No. 422, Vol. III, is none other than Vasu Caidya of Cedi, noted in Mr. Pargiter's list. Other ancient kings known to the Jātakas are Atthaka, Dhatarattha (No. 544), Dandaki, Mejjha (Nos. 530 and 497), Kalabu, king of Kāśī (Nos. 313 and 522), Mucalinda or Mujalinda, Assaka and Sela (see Appendix). The kings included in this list are those who have been distinctly spoken of in several gāthās as belonging to bygone days and cited in those

Means of determin-  
ing different chronolo-  
gical stages.

verses as illustrations from past history. It is, however, interesting to observe that amongst these ancient princes some sort of chronological distinction may possibly be drawn between those alluded to in gāthās alone, with which the Jātakas are interspersed, and those who are mentioned not only in association with them in such verses but also treated in detail in separate stories. Those belonging to the former class, *e. g.*, Sagara, Dujipa, Bhagirasa, Puthujjana (Prithuvainya?), Vessamitta, Yamataggi and Ajjuna seem to be the most ancient rulers, mentioned in the whole Jātaka literature, about some of whom ballads were current in the country as shown by Pargiter. By the time, however, these verses were composed, those mighty names had been reduced to mere memories to conjure with. To some subsequent periods of our history may be assigned the following kings, about whom some



details have been preserved, although they are of a very scrappy character and certainly of a very doubtful authenticity :— Daśaratha and Rāma of Benares (evidently a mistake for Ayodhyā), the five Pāṇḍavas with Ajjuna as the eldest, Vāsudeva of Dvāravatī, the Yudhitthila kings of Indapatta, Uśīnara, Śivi, some of the Brahmādattas of Benares, the Janakas of Videha, Dummukha of Pañcāla, Naggaji of Gandhāra, etc. It must be admitted, however, that if we search for any internal data to help us in ascertaining the chronological order of these kings, our labour in this direction is sure to be lost. There are one or two synchronisms which ought to be noted here as they may throw some light on the vexed question of chronology. One Jātaka (408, App.) makes Dummukha of Pañcāla, Naggaji of Gandhāra, Karandu of Kālīṅga and Nimi of Videha, contemporaneous with one another, and this testimony

Synchronisms and  
their value.

Dr. H. C. Raychaudhuri is inclined to accept as correct (The Political History of Ancient India second edition, pp. 51-52). It is impossible to decide finally the question of the authenticity of this evidence, but there is at least some reason for regarding it as correct, in as much as it may not be quite proper to think that all the different schools of writers conspired to err on this point, where we find them all agreeing in a striking manner. It should be noted here that one Durmukha Pañcāla is mentioned in the Aitareya Brāhmaṇa (VIII. 23, Vedic Index, Vol. I, p. 468), who was consecrated by Ṛṣi Vāmadeva. The Sarabhaṅga Jātaka informs us that a king of Kālīṅga (mentioned as King Kālīṅga) turned an ascetic. The Kumbhakāra Jātaka where the synchronism, already noted, occurs, tells us that King Karandu of Kālīṅga became an ascetic and lived with Naggaji and Dummukha in the same cave. It is quite reasonable to suppose that these two Kālīṅga kings were one and the same person. If this view is accepted, we shall be able to fully appreciate the value of

another synchronism, presented in the Sarabhaṅga Jātaka, which appears to be highly noteworthy. Here we are told that Bhimaratha, Kalinga and Atthaka were subordinate to king Dandaki. Of these, it should be remembered, Atthaka is already regarded within the range of the Jātaka literature itself as an ancient king and referred to as an inspiring example of ideal kingship in some places. Thus the significance of the synchronistic data, furnished by the two Jātakas, may be easily seen in that if we accept their testimony as reliable, we shall have to hold that Naggaji, Bhimratha, Nimi, Atthaka and Karandu were contemporary princes ruling at a time when King Dandaka was the most prominent figure in the politics of Southern India. There is, however, one difficulty in the way which is by no means insoluble. In the Sarabhaṅga Jātaka there is an incidental reference to the town of Lambaculaka in the Vijita or province of Candapajjota, in a manner

Why Candapajjota and Pajoka mentioned along with ancient kings.

which may suggest that he was a contemporary of the group of kings mentioned above. But in another Jātaka (No. 423, Vol. III) the name of this prince is given as

Pajoka. From the nature of these references it appears to be highly probable that these two versions of the same story were actually current in their present forms, one in the time of Candapajjota and the other in that of Pajoka, and were afterwards incorporated into the present edition, although they had no real or vital relation with the main incidents narrated in the general story. I propose to identify Pajoka with Ajaka, who reigned for 21 years and whose son Nandivardhana was the last of the Pradyotas. (Pargiter's *Dynasties of the Kali Age*, pp. 19, 68.)

Towards the end of this ancient period which cannot, however, be definitely located, Kāśī was an important political power, of which there are certain indications in some of the Jātakas. Kāśī at this stage thought of conquering Gandhāra in the

End of a period.  
Kāśī's greatness.

Nóth-West, and in the South she actually brought the country of Assaka under her control. One Kāśi monarch is ambitious enough to think of universal conquest. He brings a thousand kings as prisoners to his city, where they are put to death in the most cruel manner (353, Vol. III, p. 160, Fausböll). In another story we are told that Benares was once known as the chiefest city in the whole of India (No. 243). Manoja (No. 532), a king of Kāśi, subdued 101 kings, including those of Aṅga and Magadha, Avanti and Assaka. The chief dynasty of Kāśi, known to the Jātakas,

Kasi and Pañcāla—  
Vedic evidence.

was called Brahmadatta, and we hear of Brahmadattas of Aṅga, of Assaka, and Pañcāla, etc.<sup>1</sup> (see Raychaudhuri's P.H.A.I., pp. 399-400). One Jātaka (No. 505) informs us that at one time Uttara Pañcāla was included within the dominions of the Kurus. Macdonell and Keith state in the Vedic Index (Vol. I, p. 165), that in the Vedic literature the Kuru-Pañcālas are often expressly referred to as a united nation [see Jaiminiya Upaniṣad Brāhmaṇa, Kausitaki Upaniṣad, Gopatha Brāhmaṇa, Kāthaka Samhitā, Vājasaneyi Samhitā (Kāṇva recension)]. Dr. Raychaudhuri draws our attention to the 166th chapter of the Ādiparva of the Mahābhārata where it is mentioned 'that Uttara Pañcāla was wrested from the Pañcālas by the Kurus and given away to their preceptor' (P.H.A.I., p. 34). We learn of one Arindama Sanasrata, a mahārāja, from the Ait. Brāh., VII. 34, who may be identified, for aught we know, with an Arindama, mentioned in Jātaka No. 529.

The next age is prominently characterised by conflicts between neighbouring states in Northern India and in some parts of the peninsula also. One of the chief features of this period was the uncertain and shifting nature of the political issues which could not be permanently settled

Wars between  
neighbouring king-  
doms. Growth of  
political ambition.

<sup>1</sup> Cf. King Brahmadatta of Kāmpilya, mentioned in *Svapnavāsavadattā*, ed. by Gaṇapati Śāstri, p. 104 (2nd edition).

by this kind of intermittent warfare. A temporary annexation of the enemy's kingdom could never be a guarantee for the complete cessation of hostilities and so long as a radical cure was not found out and applied, the political atmosphere continued to hold in a state of suspended animation all the forces of a cataclysmal transformation, soon to burst upon the country. We can here and there mark a spirit of propagandism, which deliberately seeks to protect the sanctity of specially favourite countries like

A propagandist  
spirit.  
Presages of a Great  
Change.

Kāśī, where the Master turned the Wheel of the Law, even though the forces of history have already begun to operate in a reverse direction by proclaiming their political downfall. When a Kāśī king is taken prisoner by Kośala, he invariably develops mystic meditations and the Kośalan king out of fear and in a

Kāśī and Kośala. spirit of repentance sets him free and restores his kingdom. Whatever may be the spiri-

tual values of a system of meditation that gives consolation even in the most tragic moments of life and induces reverence in the enemy, the historian is to understand from these stories only that a new political order has already begun to dawn upon the country. Thus the unstability and indefiniteness which characterised the attempts of an earlier age gradually disappeared from the political atmosphere in Northern India. Signs of a

Magadha and Aṅga.

great change are unmistakably visible where a king of Aṅga defeats a certain Magadhan monarch, who out of shame, jumps into the river Campā to commit suicide, but is finally set over the two kingdoms of Aṅga and Magadha by a Nāga king, who receives a tribute in return for his services. Might we not read into this legend the rise of the first historical dynasty of Magadha, either under Śiśunāga, or under Bimbisāra (Dr. Bhandarkar's Carmichael Lectures, 1918, p. 71 ; K. P. Jayaswal's articles, published in the Journal of the Behar and Orissa Research Society, Vol. I, Part I and J. A. S. B., 1913), as the

Nāga influence on the Magadhān politics has been clearly suggested? The attitude of Kośala also undergoes a radical change. The virtues which its king cultivates are strikingly those of an aggressive monarch, determined to have his way (App. 'Mallika' No. 151). "Several successful invasions of Kāśī by the Kośalāns under the kings Vaṅka, Dabhasena, and Kaṁsa, are referred to a date before the Buddha's time.

The advent of a New Age.

And the final conquest would seem to be ascribed to Kaṁsa, as the epithet 'Conqueror of Benares' is a standing addition to his name" (Rhys Davids' *Buddhist India*, p. 25; also *Jāt.* 1. 262; 2. 403; 3. 13, 168, 211, 5. 112 and the App.). We are thus gradually drifted to a stage which is chronologically the last in the Jātakas, where a settled order emerges out of the chaos, doubt and vagueness of the preceding age—such a picture though of a doubtful value of our political history, is furnished more completely, however, in the *paccupannavatthu* portion of the Jātaka literature, preserving for us the memories of an age, spiritually dominated by the Buddha and politically

The age of the Buddha, some outstanding political factors.

by Mahākośala and Pasenadi of Kośala, Bimbisāra and Ajātasattu of Magadha, Udaya of Kosambi and Candapajjota of Avanti. It

must be pointed out, however, that this portion in the Jātaka literature is based on ancient traditions, though scholars have shown, they were compiled at a much later date. In this age Kāśī came to form an integral part of the kingdom of Kośala, and Bhattiya's son Bimbisāra Senika of Magadha annexed Aṅga by killing its last monarch Brahmadatta (See J. A. S. B., 1914, p. 55 and Bhandarkar's C. L., pp. 49 and 73).

Certain instances of the Jātaka's correspondence with the Purāṇas and the epics have already been noticed in connection with the chronological problem. Here we shall point out some more without however, committing ourselves to an admission of the historicity of the

information supplied. Amongst the kings of Benares, who are generally mentioned not under their individual names but under the dynastic name "Brahmadatta," Dr. D. R.

Some more instances of similarity between the evidence of the Jātakas and that of the epics and the Purāṇas.

Bhandarkar has identified Viśvakṣena and Udakṣena of the Purāṇas with Vissasena and Udayabhadda of the Jātakas respectively (See App. for references) and king Bhallatiya

of Benares, mentioned in the Bhallatiya Jātaka (Vol. III) with the Bhallāṭa of the Purāṇas. There is nothing to offer in support of this identification, the striking agreement in names is not after all a very convincing argument. Viśvakṣena, Udakṣena and Bhallāṭa are names of three kings of South Pañcāla according to the Purāṇas. (See Pargiter's A. I. H. T., p. 166.) But the Jātaka names are those of Kāśī kings. 'Brahmadatta,' the familiar title of the Kāśī monarchs, mentioned in the Jātakas, is, however, the name of the immediate predecessor of Viśvakṣena. That may go to support Dr. Bhandarkar's theory. It is interesting that a king called Chulani-Brahmadatta, noted in the Rāmāyaṇa (1-32), is also mentioned in the Mahā Ummagga Jātaka (No. 546). The

100 Brahmadattas.

Sabhā Parva of the Mahābhārata (Chapter IX) refers to the hundred Brahmadattas—'Śatañca Brahmadattānām' and we have in the Jātakas numerous kings of that name. The name of Māndhātā occurs (See App.) as that of a king of Ceti, but the Paurāṇika tradition assigns him to the royal dynasty of Ayodhyā, making him a son of Yuvanāśva II and a remote descendant of Vikukṣi, (Pargiter's Dynastic lists; A. I. H. T., p. 145). Bhīmaratha, referred to in the Sarabhaṅga Jātaka, is most probably a South Indian king. He was subordinate to king Dandaki. We hear of a Bhoja Bhīmaratha in the 8th Chapter of the Sabhā

Bhīmaratha, a king of Vidarbha.

Parva. A descendant of Vidarbha, named Bhīmaratha, is noted in the Vāyu Purāṇa (95). There is another Bhīmaratha, mentioned in the Vāyu Purāṇa (Chap. 72). He is a king of Benares and is also known by

the name of Divodāsa (Divodāsa iti khyāto Vārānasyādhipaḥ). Bhoja Bhimaratha of the Mahābhārata is in all likelihood the same as Bhimaratha mentioned in the Sarabhaṅga Jātaka. There seems to be much truth in the theory that though they were principally associated with the country of Vidarbha, a line of Bhojas ruled in Daṇḍaka as well. "Kālidāsa in his Raghuvamśa (V. 34-40) calls the king of Vidarbha a Bhoja (cf. also Mbh. V. 48. 74 ; 157. 17). But Vidarbha was not the

The Aitareya Brāhmaṇa and Bhoja Kings.

only Bhoja State. The Aitareya Brāhmaṇa refers to several Bhoja kings of the South. A line of Bhojas must have ruled in Daṇḍaka "

(P. H. A. I., p. 56). It was certainly in the country of Daṇḍaka that king Dandaki ruled with his capital at Kumbhāvati. One may be tempted to identify him with the Bhoja king

Jātaka Dandaki and Daṇḍakya of Kauṭilya.

Daṇḍaka, who is spoken of as having brought about the extinction of his family and kingdom " Daṇḍakyo nāma Bhojaḥ kāmāt Brāh-

maṇa-kanyāmabhimanyamānas, sabandhurāstro vinanāśa " (Kauṭilya's Arthasāstra, edited by Dr. Shyāma Shāstri, p. 11).

According to the Sarabhaṅga Jātaka the cause of the extermination was not a " lascivious attempt on a Brahmin girl " but an offence to a Brahmin ascetic.

Apacara and Paurāṇika Upacara.

The identity of Aparaca or Upacara of Ceti, or simply Cecca, with Caidya Uparicara Vasu,

may be easily accepted. According to the Purāṇas Vasu had five sons (See, e.g., Viṣṇu Purāṇa, 4th Part, 19th Chap.), viz., Vṛhadratha, Pratyagra, Kuśamba, Mavella and Matsya, to each of whom is given the credit of founding a new kingdom. The Jātaka version is substantially the same. According to it Upacara of Ceti perished with his kingdom and his five sons founded five different kingdoms at the advice of a Brahmin who had turned an ascetic since his retirement from the post of royal chaplain. With regard to the Videhan line it may be pointed out that the Jātakas knew of more than one Janaka reigning at Mithilā. This is in striking

agreement with the Paurāṇika references to the Janakavaṁśa  
*Janakavaṁśa.* [Viṣṇu Purāṇa, 5th Adhyāya, 1th Part,  
 line 13] or the Janaka dynasty of Videha.

Ancient tradition regards Kalara Janaka or Kṛti as the last  
 of the Janakas and this is corroborated by the Jātakas  
 (see App.). Regarding the identification of

Identification of  
 Mahājanaka I with  
 Sītā's father.

Mahājanaka I with Janaka, the father  
 of Sītā, the philosopher-king of the Vedic  
 literature, proposed by Dr. Raychaudhuri, I am afraid the  
 theory does not seem to be supported by strong reasons. The

Objections against  
 the theory.

Jātakas do not give us any information as  
 regards Mahājanaka the First, the only  
 point mentioned about him is that he was the father of two  
 sons, Aritthajanaka and Polajanaka (No. 539, Vol. VI).  
 On the other hand Mahājanaka the Second is a towering

Claims of Mahā-  
 janaka II.

and luminous personality, a clear-cut his-  
 torical figure, having had a unique career  
 in his early years, and in the later part of his life exhibiting  
 a great spirit of renunciation. Though the Paurāṇika and  
 epic accounts do not supply any information of historical  
 value regarding the early life of Janaka, yet the Brāhmaṇi-  
 cal literature by representing him as a philosopher of great  
 repute, shows a good deal of kinship with the Jātaka tradition  
 regarding the transformation of his character and outlook  
 which occurred towards the end of his life. Moreover as  
 we consider the parallelism, existing between a verse to  
 which Mahājanaka the Second, is said to have given  
 utterance and another attributed to Janaka in the  
 Mahābhārata (XII. 17, 8-19), we are strongly inclined to  
 take Mahājanaka II as identical with Janaka—a view which  
 seems to have been entertained by Prof. Rhys Davids (The  
 Buddhist India, p. 26). The Purāṇas mention a certain  
 Ariṣṭanemi, who occupies the 73rd position in the list of  
 Videhān monarchs. (Pargiter's A. I. H. T., p. 149.) He is  
 the son of Rṭujit. Dr. Raychaudhuri's attempt to identify



Ariṣṭanemi with Arittha Janaka does not appear to be plausible. Ariṣṭanemi's predecessor is Rṭujit and successor Śrutāyus, but the Mahājanaka Jātaka mentions Aritthajanaka as having been preceded by his father Mahājanaka (who may be conveniently described as Mahājanaka I), and succeeded first by his brother Polajanaka and after his death by his son Mahājanaka II, who in our opinion is none other than the Great Janaka mentioned in the epic literature. Neither the Purāṇas nor the Jātakas knew of Māthava Videgha, mentioned in the Śatapatha Brāhmaṇa (Vedic Index, Vol. II, p. 293). It is however noteworthy that the Purāṇas explain the origin of 'Videha' and 'Mithilā.' In doing so they mention a king called Mithi. The Jātaka No. 541 (see App.) indicates Makha as the earliest of the Videhan kings. This Makha may be identical with the Paurāṇika Mithi. We fail to see how the name Māthava Videgha can be taken as equivalent to Makhadeva, but if the identity is accepted we must have to thank Dr. Raychaudhuri for making this interesting suggestion.\* References to Prasenajit (Dynasties of the Kali Age, p. 67), Udayana (p. 66) and Pradyota (p. 68), mentioned in the Paurāṇika literature can be traced in some Jātakas, but they are more or less of a casual nature (e.g., 'Udaya gave.....'; 'Pasenadi's dreams'; 'the town Lambaculaka in the kingdom of Candapajjota'; App.).

There is a large body of tradition about various kings and princes, scattered in the whole literature of the Jātakas, which in some cases bear evident resemblance to the epic and Paurāṇika evidence and in others again reveal, on a closer study, some striking points of difference. Stories which we find in their highly

References to Prasenajit, Udayana and Pradyota.

Jātaka and Paurāṇika tradition. Development of literatures.

\* According to Barua and Sinha 'Makhadeva' should be equated with 'Mahādeva' which again, may be converted into 'Mādhava.' (See Barhut Inscriptions, published by Calcutta University, pp. 79-80; Calcutta Review, Oct., 1927, p. 66. For Dr. Vogel's reference to the point, see J.R.A.S., 1927, p. 594.)

developed, artificial and complex forms in the epics and the Purāṇas, are met with in the Jātaka literature, not as mere replicas, but with notable peculiarities in much simpler garbs, giving them a distinct stamp of originality and probably also indicating an independent source for them. The question of the relation between the Buddhist tradition on the one hand and the Paurāṇika and epical history on the other has been tackled by a host of eminent scholars, European and Indian. Such a discussion does not fall within the purview of the present thesis and I humbly confess my inability to hazard an opinion on a subject, which has puzzled so many historians of repute, without personally examining all the available materials, embodied in the whole literature, Buddhist, Jaina and Hindu. Here

Parallelisms.

I shall content myself merely with an enumeration of the various parallelisms which may be noticed between some of the traditions preserved in the Jātakas and those contained in the Purāṇas, and the epics, relating to ancient Indian princes, without expressing any opinion for the present regarding claims to priority or the vexed question of origin or sources. I believe, I should also refer in this connection to some of the leading theories on the subject of the inter-relation between the epics and their Jātaka versions in order to indicate the present stage of our research so far as this topic is concerned. The Dasaratha

The Dasaratha  
Jātaka and the  
Rāmāyaṇa.

Jātaka gives us a version of the Rāmāyaṇa legend, but according to it Rāma Paṇḍit's mother was dead when his father took another wife whose son was Bharata Kumāra. Rāma had one uterine brother, named Lakkṇa and a sister called Sītā. There is no reference to his contact with Rāvaṇa. As a matter of fact, according to the Dasaratha Jātaka, the exiled princes Rāma and Lakkṇa together with their *sister* Sītā had never gone to the South, but to the Himalayas where they lived in the

Notable points of  
difference.

forest. Dasaratha has been mentioned as a king of Benares, which is probably due to the fact that the Jātakas as a rule, as we have shown elsewhere, are inclined to show special favour to this country. A Gāthā (Jāyaddisa Jātaka, No. 513, p. 29 F.), however indicates its knowledge of the *epic association of Rāma with the Daṇḍaka forest* and of his mother having been alive at the time of his departure from his capital. The points which seem to have been overlooked by Weber are, firstly, that Lakṣaṇa and Sitā came back to Kāśī before the expiry of the full term, Rāma remaining in the forest to complete the period appointed, and, secondly, that there is another passage cited above where Rāma's exile in the Daṇḍaka forest is clearly alluded to. In the opinion of

Theories of different  
scholars.

Weber "the Dasaratha Jātaka is the old Buddhistic Saga of the pious prince Rāma, which glorified him as an ideal of Buddhistic equanimity, afterwards cast by the skilful hand of Vālmīki into a form, etc." He further holds that in addition to the Buddhistic legend it is beyond question that Vālmīki must have had access to other materials for his work. (Weber's article on the Rāmāyaṇa, translated by the Rev. D. C. Boyd—Ind. Ant., 1872, p. 122.) According to Keith the Jātaka is an attempt to turn the Rāma story to pious purposes, and it cannot be held to be an older version or source of the Rāmāyaṇa. (J.R.A.S., 1915, p. 523.) In regard to a verse that has been found in this Jātaka agreeing with another in the Rāmāyaṇa, Jacobi concludes that the epic is the source of the Pāli verse, while the opposite theory has been maintained by others. Lüders argues for a Prākṛt original form for the old verses in such cases. Dr. D. C. Sen (the Bengali Rāmāyaṇas, pp. 37-40) supports Weber and seeks to find out certain definite factors other than Buddhistic that possibly contributed to the making of Vālmīki's Rāmāyaṇa. According to Dr. Winternitz, the authors of the ancient Buddhist texts in the fourth and third centuries B.C. had as yet no knowledge

of the Rāmāyaṇa, but they knew ballads utilised by Vālmiki for his Rāma epic and.....on the other hand the Rāmāyaṇa was influenced at least indirectly by Buddhism.” History of Indian Literature, Vol. I, translated by Mrs. S. Ketkar, p. 510.) It is, however, difficult to agree with the learned Professor in supposing that the Gāthās only constitute the original portions of the Dasaratha Jātaka (No. 461) and that the entire Prose narrative is the fabrication of the compilers of the commentary (about the 5th century A.D.) (p. 508 fn. 3). There is no definite evidence in support of this view. The existence of a number of different versions of some of the important episodes of the Rāmāyaṇa throws welcome light on the nature of Vālmiki's labours and the materials on which he worked. The Pāṇḍavas are referred to in Jātaka No. 536 [See Appendix ‘Ajjuna’] as sons of Pāṇḍu ;—Ajjuna being the eldest. It illustrates the insincerity and lust of their common wife and informs us that the disclosure of the disloyalty of the wife made them serious and they finally renounced the world in utter disgust. It is noteworthy that the story does not make any reference to the Great War, or the Pāṇḍavas' connection with Vāsudeva Kṛṣṇa or the death of Jarāsandha. It

The Yudhiṭṭhila race,  
Ajjuna, Pāṇḍavas, etc.,  
and the Mahābhārata

does not mention also that another name of  
Ajjuna was Dhanañjaya. The Yudhiṭṭhila

race of the Kuru country with its capital at Indapatta is, however, not infrequently referred to and we are occasionally told that Dhanañjaya reigned in the city of Indapatta in the kingdom of Kuru. In one Jātaka (No. 515) Benares is un-

necessarily made the home of Vidhura-  
pandita, the wisest man of the age. Another

interesting parallelism is supplied by the Jātaka recording the circumstance of the death of Kāṁsa,\* the glories attained by

\* Cf. Bālaçarita, ascribed to Bhāsa, Act V, ed. by Dr. H. Weller, Leipzig ; Keith's The Sanskrit Drama, pp. 98.100.

the ten sons of Devagabbha with Vāsudeva as the eldest and Baladeva his younger, and the manner of the destruction of the whole royal house of

The Kṛṣṇa legend.

Dvārāvātī. Vāsudeva is only a powerful warrior and a great king, he has not even sufficient self-control for checking his feelings at the death of his dear son and some wise sayings of his brother Ghatapandita, who acts as the Bodhisatta in this Jātaka, restore him to his normal peace of mind: Vāsudeva's father is Upasāgara, a gallant prince from North Mathurā. Thus the Paurāṇika association of Vāsudeva with Mathurā was known.

Conne tion with Mathurā.

Nandagopā is the maidservant of his mother and Andhaka-venhu, her husband, is a male attendant. A peculiar story is told by a parrot in the Jātaka No. 546, that Vāsudeva married a Caṇḍāla woman named Jāmbavatī, who became the chief queen and gave birth to Sivi who was established on the throne of Dvārāvātī after his father's death. (Cf. a similar incident, Viṣṇu Purāṇa, Part V, Chap. 37; Part IV, Chap. 15; Matsya Purāṇa, 96.) In an illustrative Gāthā we are told that 'the men of Viṣṇu race with Andhakas sought Yama's realm' for having offended the sage Dipāyana (App.), which is in agreement with our information regarding the end of the famous Yādavas. The story of Duṣyanta and

The story of Duṣyanta and Śakuntalā.

Śakuntalā can be traced in the Kaṭṭhahāri Jātaka (No. 7, Vol. I, this similarity has already been noticed by others) where king Brahmadatta, while having gone to his park 'was roaming about looking for fruits and flowers' happened to meet a woman 'who was merrily singing away as she picked up sticks in the grove.' "Falling in love at first sight, the king became intimate with her, and the Bodhisattva was conceived then and there." He gave her the signet ring from his finger and told her that if a son was born she was to bring the ring and the child to him. The king afterwards could not recognise the mother of the boy, then there was a mysterious occur-

rence, followed by a prompt recognition of the child named Kaṭṭhavāhana as his own son and the acceptance of his mother as the queen-consort. After the death of the king, Kaṭṭhavāhana ascended the throne, having filled the post of Viceroy during his lifetime. An allusion to this story is also briefly made in the preamble of the Jātaka No. 465 by the Buddha. In the Devadhamma Jātaka (Vol. VI), we find a legend which closely resembles the memorable story of the Pāṇḍavas' encounter with Vaka, given in the Mahābhā-

The Pāṇḍavas' encounter with Vaka.

rata. Three sons of king Brahmadatta, Mahimsasa, Prince Moon and Prince Sun, went to forest with a view to escape a

dangerous palace-intrigue. In course of their journey they halted at a place, where the eldest brother took his seat at the foot of a tree and asked Prince Sun to fetch water from a neighbouring pool. The prince, as soon as he got down to bring water, was seized by the Water-Sprite, who said to him, "Do you know what is truly-godlike?" The prince failed to answer the question, he was made a prisoner and kept in the abode of the Yakkha. Prince Moon was next sent and he also shared the same fate. Next came the eldest prince Mahimsasa in quest of his missing brothers, he solved the question rightly and rescued his two brothers. The Lomasakassapa Jātaka No. 433, substantially agrees with the epic

The Lomasakassapa Jātaka and Rāyaśrṅga.

story of Romapāda, king of Aṅga, performing a sacrifice with the help of a Kāśyapa named Rāyaśrṅga and giving his daughter

Śāntā in marriage to him. The point of discrepancy is that in the Jātaka version Lomasakassapa, the great ascetic, overcame his passion while the sacrifice was in progress and went away without marrying Candavatī, daughter of a Brahmadatta of Benares. In the Sāma Jataka we have the story of a blind hunter, whose only son, Suvannasāma, while engaged in filling

Daśaratha and Piliyakkha.

a water-vessel from the Migasammatti river was shot by the poisoned arrow of Piliyakkha,

king of Benares, who had mistaken him for a Nāga, thus offering a close parallel to the story of the blind sage, killed by Daśaratha of Ayodhyā, which we find in the Rāmāyaṇa. In the Vessantara Jātaka we find Prince Vessantara being banished from his father's kingdom—a situation closely resembling that of Rāma's exile from

Vessantara and  
Rāma.

Ayodhyā. We must however remember that in this story the prince is forced to leave his father's kingdom by the pressure of public opinion against him, which is a notable point of difference from the Rāma story in the Rāmāyaṇa. This prince's advice to his wife Maddi to remain at home and not to follow him to the forest; the earnest appeal, which she so effectively made for her husband's companionship, inspite of all the dangers attending it, her ultimate success, the lamentations of the prince's mother Phusati, all these are undoubted points of resemblance (D.C. Sen's Bengali Rāmāyaṇas). Some minor parallels have been noticed by Dr. Lüders (ZDMG, 58, 1904, 713f) and Dr. Winternitz (full references to be found in the latter's History of Indian Literature, Vol. I, translated by Mrs. S. Ketkar, pp. 508-509). In most of these cases similarity of sentiments and also of situations is observable in a striking degree. The story of Uśinara's feeding of a vulture (App.) and that of Śivi's presenting his two eyes to a Brahmin (499) seem to have been amalgamated together to form the basis of the well-known Paurāṇika legend about Śivi-Auśinari. Some more parallel situations and ideas are noticeable. But as they are of a somewhat minor importance, it is not necessary to mention them in this general review. There is a little striking agreement between the legend, described about a certain king of Videha in the 13th canto of the Mārkaṇḍeya Purāṇa and that relating to Nimi, found in the Nimi Jātaka [App. (541)]. In this connection reference may be made to the discussion that took place between Bhīṣma, the *Kuruvara* or the best of the Kurus, and a Brahmin from the country of Kalinga, accor-

ding to III, VII of the Viṣṇu Purāṇa, which shows some clear affinity to the Kurudhamma Jātaka. The episode of the encounter of Kṛṣṇa and Balarāma with two stalwarts, appointed by Kaṁsa, as described in the Ghaṭa Jātaka (454) may be studied along with the account, given in V, XIV, of the Viṣṇu Purāṇa with interest. The Yakkha general Punnaka speaks of a precious jewel belonging to the universal monarch in the Vepulla mountain near the city of Rājagaha, which puts us in mind of a similar object, which is said to have come into the possession of king Jarāsandha through Vṛhadratha, as mentioned in the Mahābhārata. Jarāsandha took 101 kings prisoners for the purpose of sacrificing them. Curiously, in the Jātakas we hear of more than one king, thinking of putting to death the same number of kings or even more, after having imprisoned them as captives of war.

## SECTION II.

On some of the events of political interest and details regarding contemporary kings and peoples in the age of the Buddha, much light is thrown by the introductory episodes, the *Paccupanna-vatthu* portions of the Jātakas. There are copious references to Mahākosalā and his son Pasenadi, to Bimbisāra and Ajātasattu and in a much less prominent manner to Udayana. We hear of the Śākya of Kapilavattu, the Mallas of Kusinara, the Licchāvis of Vesālī and the Koliyas, who were the immediate neighbours of the Śākyas. The introductory episode of the Vessantara Jātaka (No. 547) tells us that the Śākiyās were

References to kings and incidents of the Age of the Buddha.

‘a proud and stiff-necked race’ (Śākiyā māna-jātiyā mānatthaddhā, p. 479, Vol. VI). The Śākiyās who assembled to receive the Buddha on a particular occasion are called *Sākyarājāno* and the latter was their *ñatisettha*, ‘the chief of their clan.’ The princes and the princesses (rājakumāre ca rājakumāriyo ca) who welcomed him, did not at first consider him to be worthy of their respect

The Śākkas and their constitution.



as he was their younger. The king (Rājā) was the first to do obeisance to him and his example was followed by all others present. The preamble of the Bhaddasala Jātaka (No. 465) mentions that the Śākyaas lived in a place, subject to the authority of the king of Kośala (Kosalarañño

Śākyaas and Pasenādi

ānāpavattiṭṭhāne vasāma, p. 145, Vol. IV).

Because of this fact, though they were extremely proud of their racial purity, they could not afford to be discourteous to the embassy of the Kośālan monarch, inviting them to offer him one of their

The Kośālan  
Embassy.

daughters in marriage. They were not prepared to provoke his enmity by an act of incivility on their part (dārikamna dassāma mahantam veram bhavissati, p. 145). The Śākyaas assembled together to deliberate as to the steps that were to be taken in response to the message sent by Pasenadi. Vasabha-khattiya, daughter of Mahānāma by a slave woman, is

described by the Buddha as a king's daughter

Marriage problem,

(rājadhītā, p. 148) and by Pasenadi as the

Śākya king's daughter (Śākyarājadhītā, p. 146). Vasabha-khattiya herself is reported to have represented to her son Viḍūḍabha that his grandsires were the Śākya kings (tāta, tava Śākyarājāno mātāmahā, p. 146).

Viḍūḍabha—his vi-  
sit to the realm of the  
Śākkas.

Viḍūḍabha after his installation as king set out with a large army with the object of destroying the whole Śākya community. He

saw the Buddha seated beneath a tree at a place near Kapila-vatthu, and hard by that spot there was a shady banyan tree that stood on the boundary of Viḍūḍabha's realms. (Kapila-vatthusāmaṇṭe .....rukhamūle; tato avidūre Viḍūḍabhassa rājjasimāya .....nigrodharukkho, p. 152.) In the Samudda-vijaya Jātaka (No. 466) Devadatta, the cousin of Buddha, laments in a soliloquy that he is forsaken by the multitude of Śākya kings (vissattho...Śākyarājakulehi, p. 158, Vol. IV). A wholesale massacre of the Śākyaas was perpetrated by Viḍūḍabha. "King Viḍūḍabha slew all the Śākyaas beginning

with babes at the breast" (No. 465). There was once a quarrel between the Śākya and the Koliya over the question of the use of the water of the river Rohiṇī, which flowed between the cities of Kapilavatthu and Koliya, for agricultural purposes. The quarrel had originated with the peasants of the two cities and their kings were getting themselves prepared for a war. In course of the altercation the peasants of Koliya insulted the Śākyas in the following manner, "Be off with your people of Kapilavatthu, men who like dogs, jackals and such like beasts, cohabited with their own sisters" (C., p. 221, Vol. V.).....tumhe Kavāsike gahetvā gacchatha, ye soṇasigālādayo viya attano bhaginihi saddhiṃ vasimsu, etc., pp. 412-413, Vol. V. But the Śākyas were evidently proud of their custom, condemned by the Koliyas. "We shall show them how strong and mighty are the men who cohabited with their sisters," said the Śākya labourers when they sallied forth to meet the Koliyas in a battle (bhaginihi saddhiṃ saṃvāsikānaṃ thānaṃ ca balaṃ ca dassessāmā, p. 413, for other instances of such custom see App. and Buddhaghosa's commentary on the Suttanipāta Sumaṅgala-Vilāsinī, Pt I, pp. 158-160). When the dispute had first originated, it was reported by the Koliyas and the Śākyas to the ministers who were in charge of matters, apparently relating to the management and control of the river Rohiṇī, the superintendence of the dam, etc., who again brought it to the notice of the Rājakulas, *i.e.*, members of the community of kings (tasmim kamme niyutta-amaccānaṃ kathesumamaccārājakulānaṃ kathesum). Finally, the decision was taken that the dispute had to be settled by war. The Buddha who came to prevent the imminent outbreak had to address the Rājās who were engaged in making military preparations. The two cities of Koliya and Kapilavatthu each handed over to the Buddha 250 Kumāras or princes (ubhayanagaravāsino

The Śākyas and the Koliyas—a quarrel.

'Living with sisters.'

Ministers in charge of certain matters.

addhateyyāni addhateyyāni kumārasātāni adamsu, p. 415).

The Sākkas and the Buddha.

The Buddha was claimed by the Sākyas as the best of their kinsmen (amhakam ñāti-settho, p. 413). Had he not left the world

as an ascetic, he would have had an escort of Khattiyas (tato khattiyaparivāra abhavissa, p. 414, No. 536, Kunāla Jātaka, Vol. V). The history of the origin of the famous quarrel between the two tribes is given differently in another traditional account, to be found in the same Jātakas, where the following occurs, "gradually the people of the two cities, the serfs and the labourers, the attendants, headmen, councillors and Viceroy, all of them sallied forth ready for battle" (ubhayanagaravāsino dasakammakara c' eva sevakabhojakā-macca-uparājāno ca, etc., p. 413.). But the Jātaka accepts the previous version as true and rejects this one as unworthy of credence.

After gleaning above the various points which struck us as important in connection with the Sākyas and their relations with other countries, we shall now attempt to briefly discuss

The Sākyas and their government.

the views, put forward by scholars, regarding the form of government that prevailed among the Sākyas and the exact nature of

the connection that existed between them and the Kośalas.

With regard to the first point it should be mentioned

Rhys Davids' view.

that Rhys Davids is of opinion that the "administrative and judicial business of the Śākya clan was carried out in public assembly" and "that it was at such a parliament that king Pasenadi's proposition (i.e., marriage proposal) was discussed." He further holds that 'a single chief—how, and for what period chosen,—we do not know,—was elected as office-holder, presiding over the sessions and, if no session were sitting, over the State. He bore the title of Rājā, which must have meant something like the Roman Consul or the Greek Archon' (Buddhist India, p. 19). It should be mentioned in this connection that it

does appear to be essentially important for our purpose to know the definite position of the chief, the existence of whose office has been imagined by Rhys Davids, in view of the fact that the title '*Rājā*' was amongst the Śākyas not the monopoly of a single person but that it must have been applied to quite a large number of men. It seems that there was a *fraternity of Rājās* and that one of them was invested with some superior powers only for the sake of

Other theories.

administrative convenience. Prof. D. R.

Bhandarkar in discussing the character of the Śākiyan constitution at some length lays much emphasis on a passage in the Vinaya Piṭaka (V.P. II. 181), according to which at one time Bhaddiya, a young cousin of the Buddha's was the king of the Śākyas. In his opinion the preambles of the

The evidence of the Vinaya Piṭaka.

Jātakas are of a much later age than the Vinaya Piṭaka and, therefore, cannot be relied upon when they oppose the testimony of the canonical text (Foot-note, No. III, p. 161, Carmichael Lectures, 1918). He concludes that the Śākyas were in truth ruled by a hereditary king, a full-fledged monarch, and summarily dismisses Rhys Davids' theory that their government was carried on by a chief with the help of a parliament. We must frankly confess that we do not understand the reason why Prof. Bhandarkar has rejected the testimony of the Jātaka preambles in this particular case and we fail to see in what respects it contradicts the evidence of the Vinaya Piṭaka on which the learned professor places so much reliance.

A criticism.

In discarding the Jātaka evidence, we are afraid to say, he has hardly done any justice to other materials brought forward by Rhys Davids in this connection. In many cases the traditions, embodied in the introductory portions of the Jātakas, have been found to preserve much genuine historical material and one must offer very strong reasons to prove that these traditions have been so utterly false in respect of the Śākyas in particular as supposed by Prof.

Bhandarkar. Dr. R. C. Majumdar, who had no opportunity to fully examine Prof. Bhandarkar's view when his book "Corporate Life in Ancient India"\* was published, strongly advocated the theory that the Śākya had a non-monarchical constitution. According to him the Śākya were governed in the same manner as the Licchāvis. He points out that the number of the kings in the Śākya territory 'is not definitely stated but must be held to have been considerable in view of the fact that 250 princes were offered as escorts for the Buddhas,' (p. 97). Mr. K. P. Jayaswal substantially agrees with the view of Rhys Davids, which we have summed up above, and adds that the Buddha's father was the President of the Śākya gaṇa (Hindu Polity, Part I, p. 49). We must, however, refrain from indulging in wide generalisations regarding the exact character of the Śākya Constitution, which are not warranted by the very insufficient materials we possess on the subject. Many features of that constitution will remain hidden from us so long as further materials are not forthcoming, although we can follow certain essential elements of that constitution to some extent. In our opinion Rhys Davids' view seems to be quite plausible.

One more point should be noticed here. Though the Jātaka mentions uparājāno or Viceroy, we are not prepared however to agree with Dr. Majumdar in holding 'that this makes it probable that like the Licchāvi rājas, the Śākya rājas were also heads of minor administrative units' (p. 98). It should be pointed out that the Jātaka in question does not mention in its list the Rājās along with the Uparājās, not to speak of the Senāpatis and Bhaṇḍāgārikās,—an omission which is certainly significant, forbidding us from drawing wide inferences and seeking to establish analogies on the basis of them.

On the question whether the Śākya were enjoying independence or not during the period under review, the opinions of scholars again

The independence of the Śākya.

\* 2nd Edition, pp. 236-23; all the other references are to the first edition.

are divided. According to one view (Bud. Ind., p. 259), the Śākya were dependent upon Kośala (Watters' Yuan Chwang, Vol. II, p. 3, to which Dr. Majumdar draws our attention) and according to another (Oldenberg's Buddha),\* 'the Śākya owed some honorary dues to the Kośala kingdoms (Majumdar's Corporate Life, p. 96). Probably the truth of the matter lies somewhere in the mean. Unquestionably, the Kośalas were more powerful than the Śākya during this age, and admitting that the Kośalas had extended their su-

zerainty over the Śākya, it cannot be shewn  
No real supremacy.

that that supremacy was of a very real character. The Śākya in all likelihood continued to enjoy a large measure of independence with their old administrative system substantially unchanged. Otherwise we cannot explain how Pasenadi thought it proper to send an embassy to the Śākya like an independent people.

Vesāli under the Licchāvis enjoyed a good deal of reputation as an extremely prosperous and well-defended city. We are told that 'a triple wall encompassed the city wall, a league distance from the next and there were three gates with watch-towers, (Vesālinagaraṃ gāvutaḡāvutantare tīhi pākārehi parikkhittam tisu ṭhānesu gopuraṭṭalakayuttam, etc., p. 504, Ekapanna Jātaka, No. 149, Vol. I.....the distance between one wall and another was a gāvuta or a cow's call) and again, in that city there were always 7,707 kings to govern the kingdom and a like number of Viceroys, Generals and Treasurers (No. 149—Tattha niccakālam rajjam kāretvā vasantānaṃ yeva rājūnam sattasahassāni sattasatāni satta ca rājāno honti, tattakā yeva uparājāno tattakā senāpatino tattakā bhaṇḍāgārikā, p. 504). The statement that there were 7,707 kings is repeated in Jāt. No. 301 in the following manner...Vesāliyam kira Licchāvirajunam sattasahassāni sattasatāni satta ca Licchāvi vasimsu. The Licchāvi kings of Vesāli once mounted in 500 chariots to capture

\* Oldenberg's Buddha, translated into English by William Hoey, Calcutta, 1927, p. 98.

Bandhula, the Mallian, who had violated the sanctity of a tank which was protected by "a strong guard, within and without...and by an iron net which was spread above it, so that not even a bird could find room to get through" (p. 94, Vol. IV, No. 465, C.) This was the famous tank in the city of Veśālī where its *Gaṇa community of rulers* (*Gaṇarājikula*) used to get water for the ceremonial sprinkling (*abhiṣeka-maṅgala-pakkharani*, p. 148, No. 465, Vol. IV).<sup>\*</sup> There is a story of a Licchāvi prince and his wife in the Jātaka No. 108.<sup>†</sup>

The constitution of the Licchāvis so far as we can judge from the evidence, supplied by the Jātakas, is an enigma to us. Prof. Rhys Davids took 7,707 Rājās as representing an equal number of chiefs, but he did not attempt to define

the characteristics of this peculiar system of government. Prof. D. R. Bhandarkar and

<sup>The constitutional problem.</sup>

Dr. R. C. Majumdar undertook, several years ago, to enter into the question deeply and they seem to have worked out a common theory. Dr. Majumdar writes in his 'Corporate Life' that 'while the number 7,707 may be dismissed as a purely conventional one, it may be accepted that the supreme assembly of the state consisted of a large number of members..... Each member of the supreme assembly possessed a full suite of officers, requisite for the administration of a state.....the whole state consisted of a number of administrative units, each of which was a state in miniature by itself—and possessed a complete administrative machinery' (pp. 93-94). To Prof. Bhandarkar it seems that the Licchāvi kings had each his separate principality where he exercised supreme power in certain respects with the help of his Upa-rāja, Senāpati and Bhaṇḍāgārikā. He is of opinion that the

<sup>\*</sup> The Licchavi chiefs were 'given to argument and disputation.' 'Te sabbe pi patipucchāvitakkā abesuṃ' (Cullakāliṅgajātika, No. 301).

<sup>†</sup> For further information about the Licchāvis and others, see Dr. Bimalācarya Lāhā's 'Some Kṣatriya Tribes of Ancient India.'

Licchāvi gaṇa ' was a federation of the heads of some of the clans constituting the tribe' (pp. 155-56 C. L.). Mr. K. P. Jayaswal makes a mistake in the passage that he has quoted from the Jātaka No. 149, Vol. I, p. 504, and if this mistake were not committed, we are sure he would have given us a considerably altered outline of the Licchāvi constitution (Hindu Polity, p. 51). There is no "tattakā" after "rājāno honti" in our text in the same manner as shewn in the extract,

and so the following translation by Mr. Jayaswal is, in our humble judgment, faulty. 'They became President (rājāno), Vice-Presidents (uparājāno), Commanders-in-chief (Senā-patino) and Chancellors of the Exchequer (Bhaṇḍāgārikās).' The expression 'rājāno honti' is a part of the preceding sentence, with which it is closed, while the rest of the passage informs us of something different from what is said in the previous sentence. How can these 7,707 Rājās, again, be Uparājās, Bhaṇḍāgārikās and Senāpatīs? Mr. Jayaswal is disposed to believe that 7,707 was the number of the inhabitants, probably the foundation families, who comprised the ruling class and out of them the four highest administrative officers were appointed, who formed the Cabinet or Executive authority. How then are these four highest posts mentioned in the plural number in representing the normal constitution of the State? The passage in our opinion can by no means lend itself to the interpretation proposed by the distinguished historian of Hindu Polity.

The number of kings of the Licchāvis is not actually given as 500, as shown in Cowell's translation, but what the text clearly says is that the Licchāvi kings mounted in 500 chariots and started to pursue their enemy. The term 'gaṇa' as applied to the Rājākulas of the Licchāvi tribe, has been explained by some modern scholars as 'Republic' (Jayaswal), 'Independent Political Corporation' (Majumdar), a particular

'500'—the number of Kings.



kind of Political Saṃgha (Political Saṃgha=republic, as understood in old Greek Political Philosophy makes the nearest approach to it—Bhandarkar).

That the supreme assembly of this most interesting state consisted of a large number of members, each styled a Rājā, is undoubtedly clear from the texts but in our opinion it is not permissible to hypothesise that each of these Rājās had a complete suite of officials, Uparājā, Senāpati and Bhaṇḍāgārikā, as has been done by Professors Bhandarkar and Majumdar. What the text exactly means to say is that

Our view of the matter.

there was a certain number of kings to govern the Licchavis and a like number of Uparājās, Senāpatīs and Bhaṇḍāgārikās.

Where is the suggestion that each of these Rājās had under him the three officials mentioned above? Just as there were many Rājās, so there were many Uparājās, etc., that is the sense of the passage, if we have understood it rightly. Though Mr. K. P. Jayaswal is not inclined to question the correctness of the number, supplied in this passage, the general consensus of opinion is that it is a conventional one. We are convinced of the soundness of that view. We should be at the same time careful in considering whether or not we are doing some positive injustice to history by inferring

Some details, legendary.

that the number of each of the officials, enumerated above, was strictly the same as that of the Rājās on the strength of a

legendary statement, unsupported by any other independent evidence. In our opinion the whole statement regarding the number of officials— $7,707 \times 3 = 23,121$  is as fanciful as the statement in regard to the number of kings, to which it could never possibly be correlated. Let it be only admitted that the Licchāvi constitution was of a peculiar type with a large retinue of officials as its characteristic feature. That is all that we are warranted in concluding after a careful study of the tradition recorded in the Jātakas.

It can be pointed out in this connection that a system of government, based on such a loose consideration of Rājās, as suggested by the two scholars, is practically unworkable. The text shews in an unmistakable manner that all the Rājās had to stay permanently in the capital town of Veśālī for the conduct of the business of the state. Therefore, the real administration of each of the territorial units of which every one of the Rājās is supposed to have been the master, had to be carried on in his perpetual absence by an uparājā, a senāpati and a bhaṇḍāgārikā. This was an age of political ambition. Could not these officials, powerful and full of resources as they were, often combine and do whatever they pleased in the miniature State of the absentee lord? Government, to be real, must be infinitely more organised and effective than the one, attributed to the Licchāvis.

Such a system would lead to endless confusion, repeated dislocation of the normal business of the State—in a word it would make the country a breeding-ground of anarchy, born of political opportunism. If we are asked to describe the Licchāvi constitution as briefly as possible, we should say that it comprised a sovereign assembly consisting of a large number of members each of whom by reason of his position in the assembly alone, was known by the title of Rājā and that this body was entrusted with supreme powers of legislation, etc., essential to a state, assisted by numerous functionaries, all directly under that assembly.

An impossible system of government.

Ambition of officers.

Confusion and Anarchy.

The constitution as it was.

It is interesting to note that a very welcome light is thrown on the interpretation of the texts relating to the Śākyas and the Licchāvis by the following verse in the Arthaśāstra of Kautīlya:—

The Arthaśāstra of Kautīlya.

Kāmbhojasurāṣṭrakshatriyaśreṇādayo vārtaśastropajivinah  
Licchāvikavṛjikamallakamadarakakukurakurupāñcālādayo  
rājasabdopajivinah (p. 76, Śyāma Śāstrī's edn.).

The Mallians are referred to in Jāt. No. 183 (Vol. II).

The Mallians. King Pasenadi's Commander-in-chief was  
Bandhula, who was a Mallian. Stray refer-  
ences are those to King Suddhadana of Kapilapura (No. 447),  
Kapilapura. the town of Desaka\* in the Sumbha country  
(96), to the royal stock of Okkaka (Ikṣaku) the first great  
Desaka. king, to which the descent of Devadatta,  
Okkaka. the rival of the Buddha is traced (No. 299).

Pasenadi of Kośala seems to have been the most powerful  
of the kings, mentioned as contemporaneous  
Details about Kośala with the Buddha. The king of Kośala or  
his affairs are alluded to in about 40 Jātakas. Some of the  
more important references only may be noted here. Mahā-  
Kośala had a son called Kośala and a daughter  
Kośala and Magadha named Kośalā, whom he married to Bimbi-  
sāra. A village in Kāśī was given to him for bath-money.  
Bimbisāra was murdered by his son Ajātasattu, who  
enjoyed the revenues of the village. A war broke out  
between Kośala and Ajātasattu. Sometimes the uncle was  
victorious and some times the nephew (Haritamata Jātaka  
No. 239). Mahākośala's son was Pasenadi and his daughter  
was named Kośalā. The latter was married to Bimbisāra, to  
whom was given a village in Kāśī, providing a revenue of  
a hundred thousand for bath and perfume money [mahā-  
nacuṇnamulam satasahassuttāhājikam (p. 402, Vol. II)]. He  
was murdered by Ajāta. Then a quarrel broke out between  
him and Pasenadi regarding the possession of the village.  
Pasenadi was then a very old man and he was defeated  
again and again. Afterwards, following the directions of  
the elder Dhanuggahatissa he was able to take Ajātasattu pri-  
soner. Ultimately he was released. Vajirā, the princess of

\* Cf. Sedaka, see Dines Anderson's Index to the Jātakas, p. 71,

Kośāla, was married to his sister's son and she was dismissed with the Kāśī village for her bath-money (No. 283). The Jāt. No. 492 practically repeats the above story but here we are informed that Pasenadi's daughter Princess Vajirā was given in marriage to Ajātasattu, and not to his sister's son, who was dismissed with great pomp. Two magnates (Mahāmāttas) of the Court of Kośāla are referred to (No. 273). Queen Mallikā, wife of the Kośālan king (No. 306) paid a visit to the Master at Jetavana. The king of Kośāla's family priest is found driving in his chariot to a village which is included in his estate (No. 332, Vol. III). The Kośāla king did not shew much favour to his old soldiers, but was anxious to bestow all kinds of honours and distinctions upon strangers,—a fact which was responsible for his failure to quell a frontier disturbance. Afterwards he came to realise his mistake (No. 413, Dhumakari Jāt.) Queen Mallikā again appears in Jāt. No. 415. She was the daughter of the chief of the garland-makers of Savatthi. Once the Kośāla king was defeated in a battle with Ajātasattu and he fled from the field. While on his way he fell in love with Mallikā and returning to his palace he took the earliest opportunity of marrying her, whom he made his queen-consort. The circumstances leading to the marriage of Vāsabhakhattiyā with Pasenadi are noted in Jāts. Nos. 7 and 465. The information supplied in this connection may be summed up as follows :—

Vāsabhakhattiyā's  
marriage with Pasa-  
nadi.

lavatthu was under the control of Pasenadi and the Śākyas were probably his subjects (see *Ante*, our note on the Śākyas). He wanted to take a wife from Kapilavatthu. The Śākyas were a very proud people. But as they could not refuse the proposal of the Kośāla king for obvious reasons, they deliberated together and came to the conclusion that Vāsabhakhattiyā, daughter of Mahānāma by a slave-girl called Nagamundā, should be sent to Savatthi in response to the king's offer. At Kośāla she took her rank as the chief queen. Pasenadi's son by Vāsabhā,

was Viḍḍabha. The low origin of his mother became known when Viḍḍabha paid a visit to Kapilavatthu, where he was manifestly insulted by the nobility. It was reported to the king by his courtiers and the result was that 'the mother and son never came outside the palace.' (No. 7). Allowances to Vāsabha and her son were cut off and Viḍḍhaba took the vow of a terrible vengeance against the Sākkas (465). The Buddha interviewed the king of Kośala and pointed out the unjustness of the treatment meted out to Vāsabhā and his son. At the advice of Buddha they were however re-instated in the king's favour (465). The story of Pasenadi's unfortunate end is given in Jāt. No. 465. Once the king had gone to pay respects to the Master, then residing near a country town of the Sākkas. During his absence Dighakarayaṇa, the Commander-in-chief, raised Viḍḍabha to the throne. On return the aged king found the gates of the capital shut against him. Lying down in a shed he died the most dishonourable death for a king of his status. It seems that Pasenadi was to some extent friendly to the Śākyas, but Viḍḍabha was determined to destroy them and in this matter he was encouraged by a section of the ministry. This alone can explain the origin and the *modus operandi* of the palace intrigue that culminated in the death of Pasenadi. Pasenadi's Commander-in-chief, as we have seen, was Bandhula, a Mallian by birth (465). The Judges of Kośala took bribes ; so Bandhula, a trusted servant of the State, was placed in charge of the judgment court. But the king came to suspect him of disloyalty without any rhyme or reason. He and his 32 valiant sons were sent to capture the brigands in a disturbed frontier with directions to some people to assassinate them in a secret manner. After the death of Bandhula and his sons, Dighakarayaṇa, his sister's son, was appointed to the post of Commander-in-chief. It was with his help that Viḍḍabha ascended the throne of Kośala during the absence of Pasenadi,

A plot.

Pasenadi's death.

as described above (No. 465). We hear of the wives of the king of Kośāla and his missing jewel in *Jat.*

Other details.

No. 92; his 16 dreams in No. 77; his Brahmin employee, who could tell him which swords were lucky and which not, in 126; his inspection of the planting of bo-tree, near the gateway of Jetavana in 479; his giving a garment of the Śivi country to the Tathāgata in 499; a courtier of the king of Kośāla, noted for his integrity in 473; his taking of bribes from ascetics in 213 and of a useful officer intriguing in the harem, which was connived at in 225. Some of the details supplied regarding Bimbisāra and Ajātasattu of Magadha have been already noted in connection with King Pasenadi. The rest may be mentioned here briefly. We learn of Bimbisāra's interest in Buddha's miracles in Jātaka No. 483, Buddha telling a story to Bimbisāra as to how formerly princes of a rebellious bent of mind used to be treated, of the chronic longing in Ajātasattu's mother, the daughter of the king of Kośāla, to drink blood from the right knee of King Bimbisāra, of the Buddha's visit to Bimbisāra when he was fondling the young prince on his lap with the natural love of a father for his child (338), and of his death in the hands of his own son in Jātakas Nos. 150, 239, 283, 542, 550, etc. Ajātasattu's favour to Devadatta is referred to in Jātaka No. 26; his adherence to false doctrines in 150. He followed Deva-

Bimbisāra, Ajātasattu  
etc., of Magadha.

datta's wicked advice and slew his father.

His chief minister was Jivaka. He paid a visit to the Buddha (150). At the wish of Devadatta he sent archers to kill the Buddha residing on the Gijjhakūṭa mountain (542). And, again, the Magadha king visited the Master (544). About King Udena the following references are to be found. His park at Kosambi, his habit of too much drinking and his insulting an elder in a drunken fit (the result of revelry in the park continuing for a period of seven days), are alluded to in the *Jat.* No. 497. The Master, during his stay in the Ghosita

Udena and all about  
him.

forest near Kosambi, told a story regarding Bhaddavatikā, king Udena's she-elephant, once much honoured but neglected when old. Buddha visited Udena and the elephant was restored to the king's favour (No. 409). His son Bodhirājakumāra once stayed in Sumsu-maragiri in the country of the Bhaggas, where he built a palace called *Kokanada*. He put out the eyes of the artisan, who constructed the building, lest he should make a similar palace for some other king (353). Prof. Bhandarkar identifies this prince with Vahinara of the Purāṇas. It is quite apparent that the Bhaggas were subject to Udayana of Vatsa.

His connection with the Bhaggas.

Political ideas, methods etc., attributed to the Buddha.

This chapter should not be closed without a reference to the influence, which the Buddha is reported to have exerted upon the contentious politics of his time. That he was a deep political thinker cannot be denied, if literary evidence is to be relied upon. (See for some of his well-known political views and observations Rhys Davids' Dialogues of the Buddha, Pt. II, pp. 79-85.)

Non-violence.

Non-violence, not war, was he accustomed to support with the utmost confidence in its suitability for curing the disease of inter-state or inter-tribal misunderstandings as well as for establishing peace, unity and concord. Thus when he visited the Śākyas and the Koliyas with a view to settle a dispute, which was about to assume a portentous magnitude, the people of Kapilabattu said, "Now that the Master has come, it is impossible for us to discharge a weapon against the person of an enemy." Great was the influence of his magnetic personality amongst the masses even when he concerned himself with affairs of a purely secular interest. As soon as he came, all hostile feelings were hushed into calm and the bitterness amongst the people of the two cities ceased to exist (No. 536). The

War and how to stop it.

Analytical method.

Master's method was closely analytical, rather than emotional, which might not always appeal to the warring instinct of man. It was his habit to visit the area, aflame with agitation and excitement, and personally study the forces generating bitterness. He was not prone to fight shy of the originating cause of a disturbance. He would at once enter into a close

Practical teachings

discussion with the chief supporters of war and upholders of militarism, rather than preach conciliation in some high sounding phrases from a lofty plane in a doctrinaire fashion. In course of the discussion he would so corner the people by means of a keen cross-examination as to render them completely helpless and unable to maintain their position in any reasonable way. Much light is thrown on the procedure generally adopted by the Buddha on such occasions by the Jātaka No. 536, which gives us the story of the quarrel between the Koliyas and the Śākya. It has been already said that at the mere appearance of the Master in their midst the people of the two cities forgot their enmity. They threw down their arms, saying, 'Let the Koliyas slay us or roast us alive.' But the kings wanted war to settle the dispute. They visited the Master and the following conversation took place :—

An interesting discussion.

Question—'What is the quarrel about, Sires?' (Mahārājās).

Answer—'About the water.'

Question—'What is the water worth?'

Answer—'Very little, Holy Sir.'

Question—'What is the earth worth?'

Answer—'It is of priceless value.'

Question—'What are warrior-chiefs worth?'

(Khattiyā kim agghantiti).

Answer—'They too are of priceless value.'

(Khattiyā nama anagghā).



Question—‘ Why on account of some worthless water are you for destroying chiefs of high worth ? ’

He believed in the efficacy of incessant preachings by organised work.

organised bands of selfless workers with local knowledge and local connections, whose task was to emphasise the blessings of union and thus to slowly eradicate the spirit of violence from the minds of men. The two tribes, each of them, offered him 250 princes, who were ordained by the Blessed One. The Buddha regarded the past as a store-house of illustrations, greatly useful to us for solving the problems of the present.

The Buddha and Bimbisāra—an appeal to reason and history.

Bimbisāra’s son was likely to prove rebellious. The Master came to him and advised him to take some such steps as had been formerly adopted by kings in similar cases. What the measure was the Master himself described in the following words: “ Formerly kings, when suspicious of their sons, had them kept in a secret place and gave orders that at their death they were to be brought forth and set upon the throne ” (Jātakas Nos. 338, 373, etc.).

The Buddha and internal politics.

He kept himself in intimate touch with the internal politics of the palace. The above is one example of this and another is supplied in the Jāts. Nos. 7 and 465. Pasenadi, the king of Kośāla, was furious against the chief queen, Vāsabhā when her low origin was disclosed, and subjected her and his son Viḍūḍabha to all sorts of indignity. The Master visited the king and silenced him by the following unassailable argument, ‘ She is a king’s daughter, to a king she is wed ; and to a king she bore her son. Wherefore is that son not in authority over the realm ? ’ (No. 7.) At the advice of the Buddha the mother and the son were restored to the king’s favour (465). So far

A mistake.

as the fate of the king and that of the Śākya were concerned, it must be mentioned, however, that this advice led to disastrous consequences. For, after this Viḍūḍabha was placed on the throne of Kośāla by a

party, unfriendly to his father, and if the Jātaka evidence is to be relied upon, his first act on assuming sovereignty, was the extermination of the Śākya. The Buddha showed from the past that a king ought not to take bribes (213), and that he should not prefer newcomers to old and trusted servants of the State (413). Other sundry pieces of advice are also

attributed to him,—a king ought to rule  
Fragments of advice.

vigilantly in all kingly duties, he must be to his subjects like mother or father, ‘because, when a king is righteous those who surround him are righteous also’ (468). He had a clear and profound grasp of facts. To a lay man, by reason of the prophetic words which he used to give utterance to (see for instance Jāt. No. 465 in connection with

the Śākya) in absolute desperation, he may  
Fatalism and poli-  
tics. appear to have been a fatalist but his pro-

phecies, smacking of fatalism, were the products of his study of historical phenomena from the standpoint of the Law of Cause and Effect. Whatever we have said above regarding the Master’s intervention in the political affairs of his time must be understood as subject to the proviso that the traditions, embodied in the prefatory portions of the Jātakas, are always to be accepted with a good deal of caution.

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## CHAPTER II.

### *The Geography of the Jātakas and its Political bearing.*

The geographical knowledge of the Jātakas not only embraced a large part of India extending up to Kāveripattana, a sea-port town in the South, but also places outside India. Those were the days when active sea-borne trade and commerce were carried on between India and a large part of the world outside. Consequently, the Jātakas were aware of many islands and oceans, the country of Suvannabhūmi (Lower Burma),\* of Lankā (Ceylon ?), of the kingdom of Baveru, which Prof. Rhys Davids identifies with Babylon, and of Tambapannidipa (probably Ceylon). To this list may belong the country of Ekabala whose king Saṅkhapāla is mentioned in the Jātaka No. 546 in connection with some historical topic, but not in any account of commercial transactions. Thus the wise man, Mahosadha, called a parrot and said, "Friend, go and find out what king Saṅkhapāla is doing in Ekabala, then travel over all India and bring me the news."

'Ekabala'—a foreign country? The parrot went to the aforesaid man...As it passed back through India it came to Uttarapañcāla city (p. 198, Vol. VI). The Jātakas some times refer to '2000 islands' (No. 258 for instance), 12,000 islands and 4 continents (378). In India Bharukaccha, Ujjeni, Kāveripattana, Karambiya, Kālacampā were important centres of trade, carrying on commercial intercourse with the

\* Epigraphia Indica, Vol. XVII, p. 312. Svarṇabhūmi, mentioned in the Arthaśāstra of Kauṭilya, p. 79, Śyāma Śāstri's edition. Cf. Dr. Kālidāsa Nāgā's deductions from the geographical facts in the Arthaśāstra. Théories diplomatiques, pp. 118, 133. See also Dr. Keith's article in the Sir Asutosh Memorial Volume, p. 16.

world that lay outside India. There was direct trade connection between Kālacampā, the chief city of Aṅga and Suvannabhūmi. "We are told of traders

Trade and Commerce  
—important centres  
in India.

going from Videha to Gāndhāra, from Magadha to Sovira, from Bharukaccha round the coast to Burma, from Benares down the river to its mouth and thence on to Burma, from Champa to the same destination." (Bud. Ind., p. 104.) These evidences of our commercial life, with which the Jātaka literature abounds, belong more appropriately to a chapter of the economic history of Ancient India. Our duty is to make a passing reference to them, as showing the extended geographical horizon of the

Political connections  
through trade.

Indians who lived in this age and also implying the existence of somewhat intimate connections with foreign countries through the medium of trade and commerce. A complicated commercial system is expected to presuppose a code of inter-state regulations, no matter in whatever form. It is not impossible to surmise, though there is a lack of direct evidence so far as we can see, that political factors played an important part in regulating inland and foreign trade and commerce in those days. Foreign kings were probably represented in the courts of different Indian princes by their own messengers. We hear of 'messengers come from foreign countries' in the Jātaka No. 462.<sup>1</sup> The Nāga king of the island of Serumā used to come to Tamba, king of Benares, to play dice with him and he abducted the queen to his own place (see App.).

The Jātakas were familiar with the three well-known divisions of India, *viz.*, Uttarāpatha, Madhyadeśa and Dakṣiṇāpatha. But nothing is said about their respective boundaries in detail. We are told that Videha was a kingdom of the middle country (406), that a Kōśala king, wishing to conquer Kāśī, crossed the border of his kingdom and found himself in the

<sup>1</sup> Tīrojanapadehi āgatānaṃ dūtānaṃ (Saṃvarajātaka, 462, Vol. IV, p. 132).

middle country (51). The country of Arañjara was situated in the central region (No. 423). The district of Kāṁsa, of which Kāṁsa, the uncle of Vāsudeva, was the ruler, was a part of the Uttarāpatha (459). Avantī was a country of the Dakṣiṇāpatha. There is a reference to a Brahmin family from the North-West (North? see No. 80 for instance) in Jāt. No. 73 (Uddiccabrāhmaṇakule). India presents in this age a number of well-formed independent states, normally at peace, but occasionally at war with one another. The kingdoms, mentioned in our texts, are noted below with the name of the capital in each case, if available. For the identifications of these places we should refer our readers to Cunningham's Ancient Geography of India, edited by Mr. S. N. Majumdar of Patna, Rhys Davids' Buddhist India, Bhandarkar's Carmichael Lectures, 1918, Raychaudhuri's Political History (especially the chapter on the 16 Mahājana-padas) and N. L. De's Geographical Dictionary of Ancient and Mediæval India.

(1) Sivi, capital Aritthapur (499), Jetuttara (547).

(2) Madda—Sagala.

(3) Kāśi—Capital Benares which was known in different ages by different names, *viz.*, Surundhana, Sudassana, Brahmavaddhana, Pupphavati, Ramma and Molini.

(4) Kośala, generally Sāvatti, sometimes Sāketa ; the two cities are mentioned together in Jāt. No. 512, where Sabbamitta rules over Sāvatti. Also Ayodha.

(5) Videha—Mithilā.

(6) Aṅga—Kālacampā or simply Campā.

(7) Magadha—Rājagaha.

(8) Kāṁsa—Asitanjana.

(9) North Mathurā.

(10) Bharu—Sea-port town Bharukacca.

(11) Avantī—Ujjeni, Mt. Ghanasala. (Avantī-dakṣhiṇa-pathe).

- (12) Daṇḍaka—(Kumbhavati), where stood the Golden Hill. Daṇḍakahiraññapabbato nāma atthi<sup>1</sup> (Vol. II, p. 36).
- (13) Kaliṅga—Dantapura.<sup>2</sup> “Kharavela...was...a Cheta, a name not unknown to literature, as Cheta princes are mentioned in the Vessantara Jataka,” *Memoirs of the Archaeological Survey of India*, No. 1, p. 10, Foot-note, R. P. Chanda’s monograph.
- (14) Suratṭha—where flowed the Sātodikā river.
- (15) Kampilla or North Pañcāla—North Pañcāla City or Kampilla.
- (16) Kuru—Indapatta.
- (17) Gandhāra—Takkasilā.
- (18) Mahimsaka—Sakula. [Nos. 533, 524, where it is mentioned as situated in the neighbourhood of the realm of Magadha ; No. 80 which mentions the kingdom of Mahimsaka ‘Mahimsakaratṭham.’<sup>3</sup> Cowell and Chalmers mention the Andhra country in this place.<sup>4</sup>]
- (19) Ceti—Sotthivati.
- (20) Sovira—Roruva. (Roruka in the Dīgha Nikāya, II, 235.)

<sup>1</sup> Can we not locate Aśoka’s Suvarṇagiri in the neighbourhood of this mountain? Daṇḍaka probably represented certain portions of the Mahārāṣṭra region including Nasik. There is a proposal to identify Aśoka’s Suvarṇagiri with Kanakagiri in the Nizam’s Dominions, south of Maski. (See *Corpus Inscriptionum Indicarum*, Vol. I, ed. by E. Hultzsch, p. xxxviii.)

<sup>2</sup> According to Megasthenes, as reported by Pliny, there was a distance of 625 miles from the mouth of the Ganges to Cape Calington (Goringa) and the town of Dandagula. M’Crindle holds that the latter should be taken as the same as the Dāntapura of the Buddhist Chronicles, which is probably identical with Rāja Mahendri. If the tradition about the origin of Dantapura is correct, the city under this name can by no means be older than the 5th century B.C. (For a contrary view see C.H.I., Vol. I, p. 173.) The geographical data, found in the Jātaka texts, emphasise the necessity of caution in determining the question of their antiquity as a whole. Probably it would be the best course to avoid hazarding at present any general theory on the subject. Each story may be judged by itself. (See M’Crindle’s *Ancient India—Megasthenes and Arrian*, p. 144, fn.)

<sup>3</sup> Fausboll’s *Jātaka Texts*, Vol. I, p. 356.

<sup>4</sup> Vol. I, p. 203,

- (21) Vamsa—Kosambi.
- (22) Damila—City Kavirapattana.
- (23) Mejjha—Mejjharattham (497) ; also referred to in a verse (530).<sup>1</sup>
- (24) Malla—Kusavati.
- (25) Assaka—Potali.
- (26) Kingdom of Seriva—By crossing the river Telavaha one could come to the town of Andhapura. “Andhapura must mean the capital town of the Andhra kingdom. The river Telavāha is either the modern Tel or Telingri, both not far distant from each other and flowing near the confines of the Madras Presidency and the Central Provinces. This indeed locates the original Andhra country, which must, therefore, have comprised parts of both these provinces.” (See Dekkan in the Sātavāhana Period, Ind. Antiq., 1918, p. 7, and the Foot-note.)
- (27) Arañjara—in the Central Region (Majjhimapadesa).<sup>2</sup>
- (28) Kamboja—Included in the kingdom of Gandhāra.
- (29) Sindh.
- (30) Cities of Ayodhyā, and Dvāravati, Hatthipura, Sihapura, Daddarapura ; Jāt. No. 422.

There are stray references to the Vajjis, once to a Maga<sup>3</sup> king (530), the Dasannas, the Surasenas, the Andhakas and the Vṛṣṇis, and once an allusion to the Goyaniyas<sup>4</sup> along with the Videhas and the Kurus and Vethavati (near the Vethavati or mod. Betwa river) (497, 545). The Jātakas

<sup>1</sup> Vol. V, p. 267, Verse 28. Cf. the Monghyr inscription of Devapāla (Ind. Ant., Vol. XXI, pp. 254-267, Maitra's Gauḍalekhamālā, p. 39), where the Medas are mentioned along with the Andhrakas.

<sup>2</sup> Or majjhimadesa, Vol. III, p. 463, Jāt. No. 423.

<sup>3</sup> One cannot be too sure about its significance from the manner of its occurrence in our text. M'Crindle's note on the Maccocalingae may be read with profit. (See Ancient India—Megasthenes and Arrian, pp. 134-136.)

<sup>4</sup> Purato Videhe passa Goyaniye ca pacchato, etc., Vol. VI, V. 74, p. 278.

betray a strange ignorance regarding lands lying to the east of Magadha or Aṅga. Nothing is heard of Vaṅga, Pundra, or further east, of Kāmrupa. Suhma is mentioned only once in the introduction to the Jātaka No. 96 :—“Town Desaka in the Sumbha country.” Mention is made in the introductory episodes of Kośala, Magadha, Vesali, Kapilavatthu, the Sakkas, the Koliyas, the Mallas, the Bhaggas, the country of Vatsa, which have already been noticed in the first chapter.

*Some Fictitious Statements.*

It is quite in keeping with a legendary manner that the Jātakas often speak of 101 kings, ruling in the whole of Jambudvīpa. But they never took this number seriously. The statement that there were altogether 101 kings is commonly met with, but it is curious that they omit the conqueror from the list and some other kings also who could not be defeated or were difficult to be tackled with. Again, the number 1,000 is also given in some places. All such statements can be categorically dismissed as fanciful or purely conventional. As a matter of fact their geographical knowledge hardly goes beyond the list given above.

*Absence of a Paramount Power ; ambitious plans.*

Though ordinarily speaking, each state enjoyed independence, yet a discordant note was often introduced into the otherwise peaceful politics of the country by aggressive monarchs, who aspired to universal sovereignty. But the effects of all such violent disruptions were rather ephemeral in their nature. There is no trace of a paramount authority having been exercised by any particular sovereign and his line for a considerable period of time. Sovereigns were often ambitious as they usually are in all ages, their imagination



often used to be fired by the idea of universal conquest and in this they were constantly encouraged by their old ministers. But it should be noted that they never pursued anything like a systematic and well-directed imperial policy and their resources were hardly adequate for the realisation of their aggressive plans. In some cases, however, it appears that successful efforts were made to exercise a real control over other states, though there is nothing to shew that the supremacy thus acquired lasted for any appreciable length of time. In the South King Daṇḍaki who must have ruled in Daṇḍaka, established his paramountcy over Bhīmaratha, Atthaka and Kaliṅga. In the first chapter we have given our reasons for taking Bhīmaratha as a Bhoja king. Thus Vidarbha, Kaliṅga and another unidentified state were once subordinate to a single sovereign. In her days of glory Kāśī made a bid for ascendancy over other states. We are told that when the city of Benares was known by the name of Brahmavadhana, its king Manoja conquered 101 kingdoms, of which Aṅga and Magadha deserve prominent mention. It is clear from the same Jātaka that Avantī and Assaka similarly came under his control. The Jātaka No. 207 shows that once there was a king called Assaka reigning in Potali, a city of the Kāśī kingdom, which means nothing else than the subordination of the Assakan prince in the South to the king of Kāśī. Probably the people of the latter country were desirous of extending their sway in the North-West also where undoubtedly the most important kingdom was Gandhāra, with its world-famous capital at Takkasilā. A Kāśī king is reported to have invaded Gandhāra, but he had to come back without achieving his object (229 and 353). The political influence of Kāśī was established in a considerable portion of the east and of the south, but it was effectively checked in the north-west by Gandhāra. This supremacy was probably of a brief duration ; the Jātakas at any rate do not throw any light on the point. No information is given

as regards the system by which a conquered country was sought to be administered in those days. The evidences of the two Jātakas, referred to above, point out that in one case the king of Assaka was subject to Kāśī and in the other the king of Daṇḍaka had three subordinate princes,—which show that a defeated king was not necessarily pulled down from his throne but that he might be allowed to enjoy it as a vassal by submitting to the victor and paying something by way of tribute. The Sona Nanda Jātaka informs us that when a battle was raging between the kings of Kāśī and Kośala, a proposal was made to the latter in the following manner, “Great king, be not dismayed. There is no danger threatening you. The Kingdom shall be yours. Only submit to king Manoja” (Vol. V, No. 532, p. 167). The proposal was accepted and the Kośalan king submitted to Kāśī. In this way Manoja made himself master of the kings of all India (Sakala-Jambudīpe rājano āttano vase vattetva). From each royal city he caused to be brought all manner of food. The resources of a single kingdom, however great, could hardly be considered sufficient for carrying on military operations on a large scale. The practice followed favoured the union of the victor’s army with that of each king defeated or captured and the original forces, thus re-inforced, proceeded to the invasion of the next neighbouring kingdom. When this also submitted, its soldiers were forced to join the invading army, which took another kingdom and so on. Such measures alone rendered protracted military activities feasible (532). We may be allowed to say in this connection that not all the soldiers were taken away but such numbers were certainly left as were sufficient for the defence and protection of the conquered countries, when the invader turned back in the pursuit of his imperial ambition. It is apparent that a vassal king was under the obligation of supplying his overlord with a contingent of soldiers. The idea of *permanent*

*annexation* of a distant country is foreign to the Jātakas and scarcely any trace of the knowledge of an administrative machinery, suitable for governing an empire, can be found in them. Sometimes a very hard fate awaited a king who was defeated in battle. It is said that 1,000 kings, conquered by a sovereign of Kāśī, were once put to death. In Jāt. No. 546 a king of Kampilla is advised by his minister Kevatta to bring 101 kings to his city and kill them, one and all, by offering them poisonous liquor to drink. The tactics are ignoble and cruel in the extreme. We shall, however, refrain from suggesting that all these should pass as sober history. The idea is common that the kings of the whole of India could be conquered within a period of seven years, seven months, and seven days (532, etc.). The number 7 apparently was a conventional one (*cf.* 7,707 kings, etc.). Once a king took ten years to be the master of all India.

Hostility between neighbouring states was, however, a very common feature. We hear of frequent conflicts between Kāśī and Kośala, of quarrels between Aṅga and Magadha, Assaka and Kalinga. A neighbouring king once beleaguered Benares (most probably of Kośala), its king mingled with the ranks, an arrow pierced him and he died. The hostile king was also slain (283). In an engagement between Kāśī and Kośala, the latter was defeated. The prince of Kośala, Chatta, by name, fled in disguise and afterwards got back his father's kingdom (336). Another prince of Kośala, Dighavu, whose father had been slain by a certain king of Kāśī, did not retaliate upon him, though found in a very helpless condition. This act of generosity was ultimately rewarded by his restoration. A certain Brahmadatta of Benares killed a king of Kośala. The latter's posthumous son was brought up first by a goat-herd and then by a sweeper. He fell in love with Kuraṅgavi, the princess of Benares, and when his identity was proved by

Conflicts between  
neighbouring States—  
a normal condition.

his own mother he was given his father's kingdom (536). Again, it was the kingdom of Kośala which was victorious on many occasions. The natural hostility which existed between these two kingdoms, was at some particular period fomented by an ex-minister of Kāśī, who took service with the Kośala king and gave him all sorts of useful advice. On one such occasion the king of Kāśī was defeated and taken prisoner but the presence of some mystic virtue in the rival monarch inspired the Kośala king with awe. He asked forgiveness and restored the dethroned king (303, Vol. III). Again, another Brahmadatta of Benares was slain by a king of Kośala. His son made good his escape and afterwards blockaded the city at the advice of his mother. It was forced to surrender and the victor occupied the throne of his father (100). A similar story is given in Jāt. No. 536. In all these cases the annexation of the enemy's kingdom was only temporary. Quarrels between Anga and Magadha must have been no less frequent. In course of these hostilities sometimes Anga and at others Magadha won, the result in either case was the annexation of the conquered kingdom. Likewise in the south Assaka and Kalinga fought against each other, but the outcome was similarly indecisive.

Political developments in one country were keenly watched by its aggressive neighbours. It was thought to be the most opportune moment to strike the enemy when he was weak or in some natural or temporary disadvantage. Thus a king of Benares left two sons : the elder was to succeed him to the throne and the younger to be made heir-apparent. The eldest brother refused to become king whereupon the younger ascended the throne. Sometime after, the elder brother demanded the throne, but the request was not complied with. On the other hand he was ordered to be put into prison. The brother escaped and took service with another king. Hearing of these domestic troubles, a confederacy of seven kings

Interest taken in the affairs of a neighbouring kingdom.

beleaguered the city of Benares (No. 181). The dismissed servant of one state was often warmly received by its neighbour. These men in many cases proved to be a source of incalculable mischief and injury to the kingdoms which they had once served (303). There were secret agencies to report the military preparations carried on in distant countries or even the hostile intentions confided by a foreign prince to his most trusted minister. The enemy planned his attack or defence on the basis of such reports, secretly conveyed, regarding the movements of alien kings. When, for example, a king of Kampilla had invaded Mithilā, his agents entered the city by its postern gate, charged with the task of carrying all sorts of useful news surreptitiously to their master (No. 546).

Wars between distant kingdoms. Causes unknown.

Wars between distant kingdoms, though rare, were not unknown. In some cases the ulterior object of an invasion is difficult to understand. It is indeed a question how physical barriers could be so easily overcome in such cases. A Gandhāra king is said to have attacked Benares, for which no reason has been given. Was it a merely retaliatory measure? A Benares king is reported to have proceeded as far as Takkasilā to seize the kingdom of Gandhāra, but in this instance it is not difficult to take the expedition as prompted by an imperial design on the part of Kāśī, of which more tangible evidences are not lacking, as we have already seen. We hear of a war that broke out between Kampilla and Videha (546) after the former had conquered 101 princes. Here also the motive was apparently to round up an imperial career. Amongst the ancient princes mentioned, Vasudeva and his nine brothers first of all conquered Ayodhyā and Dārāvātī at a later date.

Dynastic connections.

When there was no king in a country, it was regarded as involved in a stupendous crisis. Such a state of things could not be allowed to last for a long period. A fit person was promptly

elected to the vacant throne. Generally he was a prince from another country. A Magadha prince thus on one occasion peacefully ascended the throne of Benares (378, 529) and a Benares prince is reported to have been elected as king of Takkaśilā (96). Maddava, a king of Benares, is called Māgadha. Probably there was once some close relationship between the ruling families of these countries, as testified to by a Jātaka (401). One Benares king is likewise called Aṅga, which may be due to some unrecorded triumph achieved by Aṅga in her days of glory. Rājagaha is described as a city of Aṅga. This is not difficult to explain as according to Campeyya Jātaka Aṅga in its wars with Magadha was often crowned with success. Somewhat mysterious are the statements that 'Kāśī's glorious king' was a Videha, that prince Sottihisena of the same land was a Videhaputta and that a certain Brahmadatta Kāśīrāj was a Videha (Nos. 451, 519). These stray passages alone do not, in our view, warrant the conclusion that the Brahmadattas were of Videhan origin (P.H.A.I., p. 35). It must be remembered in this connection that Kosalan monarchs also had sometimes the epithet of 'Vaideha' in the Vedic literature. (See Vedic Index, Vol. I, pp. 93, 491.)

The Jātaka stories bear witness to the great pre-eminence, once attained by the two kingdoms of Kāśī and Malla. Benares is called the chiefest city in all India (481), and Kuśa, king of Malla, is described as the chief ruler in all India (No. 531), probably belonging to a branch of the Ikshāku family. Two more kings deserve prominent mention in this connection. One is Naggaji (see App.), who ruled over the two realms of Gandhāra and Kashmir and the other an unnamed king of Magadha.

Matrimony was an effective bond of alliance between different ruling families. These alliances were not always free from political considerations. Thus a king thinks that if he

Certain pre-eminence of some states.

Matrimonial alliances.

can enter into matrimonial relations with two royal houses through his daughter and nephew, it will undoubtedly help much in establishing the greatness of his own family (262, 126). The union between Pañcāla and Videha was much eagerly sought for and this was effected at the close of a bitter struggle by the marriage of the reigning monarch of Videha with a princess of Pañcāla. Some important royal marriages may be noted below. The marriage of a Madda princess with a prince of Kalinga who afterwards became a universal monarch (479), a prince of Videha with a Kāśī princess (No. 489), Subhaddā of the Madda king's family with a king of Benares (513); Candadevī and Pabhāvatī, princesses of Madda with Kuśa, son of Ukaka of Malla (531). But sometimes the problem of marriage required a judicious and careful handling. A king's anxiety that if he gives his daughter in marriage to one, all the kings will be enraged, can be easily appreciated (479). A curious episode is related where a single wife is an object of enjoyment to two kings—an arrangement, which is the result of a compromise, the best that can be arrived at (536). The wife of a king who has given up her husband may be taken possession of by any other king or more than one king together. Seven kings invest the city of Sagala and send an ultimatum to the Madda king in the following strain, "Let him either give Pabhāvatī in marriage to all seven or let him fight us" (Vol. V, p. 157). These instances are highly interesting as survivals of primitive barbarity in ancient India.

Friendship might originate in the early days of youth between princes, receiving instruction from the same teacher at Takkaśilā and be subsequently strengthened by the ties of marriage. In one instance (489) we find the people of the two cities of Mithilā and Benares, crowding to the courtier of the king of Videha to offer presents to a new-born babe, the offspring of a

Friendship in various other ways.

happy matrimonial alliance and again joining the ceremony of installation in a spirit of fellowship. A friendly feeling often grew up between two kings though it might so happen that they had never known each other personally. A common religious career might draw two or more kings together but such unions could possibly have no political significance inasmuch as these generally happened after they had ceased to take any interest in the affairs of the world. There was no bar to an exchange of courtesies and cordial feelings between rulers of different kingdoms. The door was wide open for a backward country to receive cultural influences of all kinds from a more advanced country. Thus there is an example of 'Kurudhamma' being carried to the people of Kalinga, which proved a panacea for all evils.

In times of peace it was not thought advisable from the moral standpoint to lay hands on the citizens or representatives of other states, even though potentially hostile, when they had laid aside their arms and were engaged in a festivity in a defenceless condition. Such an attack was regarded as unbecoming and cowardly. Thus 'one day when the feast came round on the full moon of the fourth month and the city and the palace were adorned like the city of the gods, Videha's general Alata spoke to the king, 'Let us gather gay gallant army together; let us go forth to battle with countless host of men; let us bring under thy power those *who have kept themselves independent ...*' But Sunama, another high official, spoke thus, 'All your enemies, O king, are met together here,—they have laid aside their strength and behave themselves with submission; to-day is the chief festival; war pleases us not.' The enemies, referred to, were most probably the representatives of different kings in the court of Mithilā or people from various countries actively or potentially hostile, who had come there for purposes of trade

Foreigners—state's  
attitude towards them.



and commerce. The interests of traders, hailing from different countries, were safeguarded—*cf.* *Atho pi vāṇijā phitā nānāratthāto āgatā, tesu me vihitā rakkhā, etc.* (Vol. IV, p. 135). Reference may be made in this connection to the six Municipal Committees whose functions are described in detail by Megasthenes. The members of the Second Committee were required to attend to the entertainment of foreigners. To these they assign lodgings, etc., etc. (See McCrindle's *Ancient India* as described by Megasthenes and Arrian, Calcutta, 1926, p. 87.) In ordinary circumstances they must have been assured of a large measure of security and protection. To provide messengers from foreign countries with accommodation was a matter of great concern with a prince who was anxious to enhance his popularity at home (462). So *tathā katvā antonagare kassaci kiñci ahāpetvā bhattaveta-  
naṃ datvā puna Bodhisattaṃ pucchitvā rājānaṃ viññāpetvā  
antonivesane dāsaporisānaṃ pi assānaṃ pi balakāyassāpi  
vaṭṭaṃ aparihāpetvā adāsi, tirojanaṃ padēhi āgatānaṃ dūtānaṃ  
nivesanaṭṭhānādīni vāṇijānaṃ Suṃkāni sabbakaraṇiṃyāni  
attanā va akāsi.* (Vol. IV, p. 132.)

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### CHAPTER III.

*Kingship, rights and responsibilities attached to it, powers of the people, election, tyranny, political theories, etc.*

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According to the prevailing conception of the state, a king was an absolutely necessary and essential factor. The throne could not go vacant for a long time. If there was a failure of male heir, steps were taken at the expiry of seven days at the most from the death of the last king, to fill up the gap by the immediate election of a person best fitted to occupy the exalted position of a sovereign. The king was at the apex of the whole structure. He was the keystone of the arch of the body politic. The virtues which were demanded of him were justness, goodness and impartiality. If he were a right sort of man, the whole administration would receive its colour from his character and be likewise beneficial to the lives of the citizens. The whole machinery would then work smoothly and harmoniously and the equilibrium of the different orders of the state would be kept up, leading to the prosperity and contentment of the people.

But though the king was essentially necessary, as we have seen above, yet nowhere was there an attempt to idolise him. The people knew how to deal with an unjust and tyrannical king. In exceptional cases they retained the right of electing their sovereign, and the phenomenon of a whole people, rising in arms and putting a wicked king to death, is not unfamiliar. We shall discuss these points later on at some length.

People's right to  
overthrow a tyrant.

Some general points about succession to the throne and rights of people.

If a king left a legal heir, he was anointed king by the ministers of the state. That was the usual custom. The death-bed instructions of a monarch regarding succession were followed if he left a host of claimants surviving him, out of whom the ministers were to select one to the throne. But if there was a total failure of heir, it was considered to be a great calamity and the people directly interested themselves in the question of succession (539). The security of the king's position depended on the manner in which he conducted himself, his character and aptitudes. If he proved to be upright and strictly conscientious, he was popular and everything went on well. If he were not so, his wickedness in most cases was not tolerated. Such was the organising capacity of the people that within a short time there would be a perfect combination of the different communities, the Brāhmins, the Kshatriyas, the Vaiśyas, etc., a sudden upheaval of all the forces of rebellion and the king quickly got rid of (73, 194, 432, etc.). This right was so commonly exercised that wise men would often try to mend the character of vicious princes by a timely warning of the following kind. 'The people of this country will not place you on the throne but uproot like a nimb tree and drive you forth to exile (149).' This subject will be taken up again in the course of the present chapter. The death of an oppressive king used to be invariably followed by a universal jubilation amongst the subjects. They would hold festivities and do all manner of merry-making, openly avowing the cause of all this to be the passing away of the tyrant (240). It seems that the people were more intimately concerned in the manner in which the king administered justice than in anything else and any attempt, however revolutionary, to do away with an unjust king, recommended itself as perfectly justifiable to the political instinct of the race. On the other hand, a king, oppressive in the highest degree, every day imposing new taxes on the people,

appears to have had nothing to fear from his subjects, provided he did not act arbitrarily in a court of law. Of course a wave of relief would pass through the whole country at his death and the people would often give proofs of the consciousness of the wrongs they had suffered and express their condemnation freely and in the strongest language possible ; but it is interesting to note that in such cases they would not be driven by irresistible impulses to move against the king in a body. On the other hand they would certainly vindicate their rights by taking the extreme step against a sovereign who had flouted justice and entertained no regard whatsoever for even the most elementary principles of law. This fact seems to be rather anomalous. Probably the people were in some cases so completely deprived of their resources and means of resistance that they were unable to assert themselves against a plundering king.

We have been accustomed to regard the four Indo-Aryan castes as so many social units, each having its own duties and functions assigned by the law-makers of ancient India. But the Jātakas in a way give ample evidence to shew that the dignity and importance of the three upper castes rested to a very considerable extent upon the political influence by which they could make their existence felt. Their worth is demonstrated more as their being part and parcel of a political system than as mere social communities. The Kshatriyas had perhaps the sole duty of defending the honour of their country against foreign enemies, which surely required technical military skill and training on their part,<sup>1</sup> but the enemy at

<sup>1</sup> Soldiers belonging to the four principal castes were known in Kauṭilya's time, but there were differences of opinion as regards their comparative merits. Cf. "Brāhmaṇa kshatriya-vaīśyaśūdrasainyānām tejapṛādhānyāt pūrvanpūrvam śreyah sannāhayitum ityācāryāḥ." Kauṭilya, however, had a decided preference for Kshatriya soldiers : "Neti Kauṭilyaḥ .....Praharaṇavidyāvinitam tu kshatriyabalam śreyah" (Arthaśāstra, 1st edn., p. 343). The second class, according to Megasthenes, were 'exempted from military service. (McCrindle's Ancient India, 1926, p. 83.)

home was to be combated by a close combination of the Brahmins, Kshatriyas and Vaisyas. Thus it was not the Kshatriyas alone who were feared by kings and their councillors but all other communities as well for obvious political considerations, for the power they represented as factors of state. Whenever a popular victory took place over kingly absolutism or acts disapproved by the people, the triumph is shown as having been brought about by an amalgamation of the Brahmins, the Kshatriyas and the Vaisyas. The voice exercised by these communities was so effective because it was supported by physical force. Military resources of the people were once placed at the disposal of a certain man, who was able to oust his brother, the reigning king, from the throne mainly with their help (539). Here we find men giving away their horses, elephants, etc., to the king's brother, whose cause they heartily supported. The example of the townsmen was quickly followed by the country-folk and within a short time their protégé found himself established on the throne of his brother.

The monarch was regarded as the refuge of the people but in case his rule proved baneful, they were advised to be their own protectors. The king is as safe and life-giving as water (432, *Yathā udakaṁ mahājanassa paṭisaraṇaṁ tathā rājāno pi*, III, p. 508), but just as it may cease to be a blessing to us and become positively harmful, so also the king may turn to be a source of fear and calamity, instead of being a pillar of support to the people and in that case they are to depend upon themselves at any cost, even killing their oppressor if necessary. This comparison of a king to water and other vital elements of Nature (see No. 432) illustrates how the political wisdom of the people sought to express itself through the medium of similes and metaphors, which could be easily understood by ordinary men and women.

Ideas about the general functions of the king and their breach.

Kingship was generally hereditary in character and the succession was limited to the direct line, the crown passing from father to son. In Jātaka No. 193 the king says to his son, the future heir to the throne, that the kingdom belongs to his family. People in those days were very anxious for the perpetuation of the royal line, as they considered failure of heir to be a great misfortune, leading to a temporary deadlock, which was not favourable to ordered progress and continued prosperity. In Jātaka No. 489, we find the people assembling in a body in the courtyard of their king and taking him to task for his inability to keep the line unbroken, which, they argued, must have been due to a sin committed by him. The king found his position so helpless in the presence of these assailants that he agreed to the barbarous proposal of exposing all the women of the harem, including even the chief queen, for promiscuous intercourse with his own subjects, so that a son might be born who could succeed to the king after his death. This picture gives us indeed a very vivid idea of the importance attached to the question of the preservation of the ruling dynasty from natural extinction, showing what an unusual interest was taken by all sections of people in this matter vitally affecting the interests of the state. Exceptions to the above rule regarding succession naturally occurred when the dynasty was closed for want of an heir and in such cases the crown might be offered even to a foreigner. If a king left a nephew and a daughter surviving him, the nephew came to succeed him, in which case the continuity of the direct line alone was broken, but the dynasty did not end. The guarantee for good government was, of course, the hereditary character of the kingly office; if the king did not rule wisely and beneficently he might at any moment lose his throne which would be forthwith conferred upon a person,—having as a rule no relationship with the deposed king or his family,—who in the opinion of the people seemed best fitted to discharge the

Some general points  
on succession.

onerous duties and responsibilities of a monarch. Instances are not rare where such depositions actually took place. We shall have an occasion to refer to them in detail later on.

We have noted above in a very general way the *principle* of succession and its exceptions. Let us now see what information we can gather as to the procedure of succession that was generally observed. The obsequies of the departed king were performed by the ministers, after which they assembled together and set themselves to the task of choosing a successor, which was more or less a formal matter. If the deceased king left more than one son, the mantle usually fell upon the eldest. It was not, however, an inviolable rule that the eldest should succeed. In the Jātaka No. 462, the king on his death-bed says to his courtiers that every one of his hundred sons has an equal right to succession and that, therefore, the best of them only should be elected by the ministers themselves, exercising their own judgment in the matter. It should, however, be noted that the custom usually in vogue was to confer the crown upon the first-born. The Jātaka No. 96 tells us how the youngest prince of a king who had a hundred sons consulted some Pacceka-Buddhas regarding his prospect of succession. When he was told that he being the youngest of the lot, could not aspire to be his father's heir, he proceeded to Takkasilā where he was unanimously chosen king by the courtiers and the citizens. There is one remarkable instance of the youngest prince ascending the throne (462).<sup>1</sup> But it appears to have been clearly in contravention of a principle that had long been accepted as binding, and such a departure was possible only under exceptional circumstances. Invariably the eldest son acted as Viceroy during the life-time of his father and, as such he got valuable opportunities, denied to his younger

<sup>1</sup> Cf. for a well-known similar instance, Mahābhārata, I. 85. 22 ff. Men of the different castes, headed by the Brahmins (Brāhmaṇapramukhā varṇā idaṁ vachanamabruban, demanded an explanation as to why Yayāti had established Puru on the throne in preference to his elder brother Yadu.

brothers, of coming into intimate touch with the different departments of administration. By reason of experience, therefore, he seemed to be the most competent person to steer the vessel of state across troubled waters on the death or retirement of his father, specially in view of the fact that the personality of a monarch counted as a strong factor in this age.

It may be asked—Where is the people's voice in the matter of succession? There are some instances to show that when a stranger, unconnected with the dynasty that had hitherto ruled, was placed on the throne, it was done by means of some form of popular election. One important exception is, however, furnished by the Jātaka No. 247, where the ministers set aside the claims of a prince and straightway elected another as king, the people taking no part in the matter. On the death of an anonymous king of Gandhāra, a prince from Magadha was once placed on the vacant throne by the joint will of the citizens of Takkasilā and all the courtiers (*Sabbe amaccā ca nāgarā ca ekacchandā hutvā*, p. 399, *Talapatta Jātaka*, No. 96, F. Vol. I; *Chhandā*=vote; see Jayaswal's *Hindu Polity*, Pt. I, p. 115). "This was a Referendum of the whole city, and not the city-assembly only," thus opines Mr. Jayaswal in his '*Hindu Polity*.'<sup>1</sup> Jātaka No. 132 (Vol. I), speaks of a prince, who is none other than the prince of Magadha, whose activities are described in the *Talapatta Jātaka*, referred to above, as one on whom a kingdom has been conferred *by the people* (*Takkasilā-nagara-vāsihi*, p. 470, Vol. IV. F). A king on the eve of renouncing the world as an ascetic *directs his people* to elect a successor (No. 525, p. 97). Co-operation between councillors and citizens is clearly indicated in a threatened act of deposition (No. 149, Vol. I). Apparently popular election in some form

<sup>1</sup> Mr. Jayaswal's inference may not be acceptable to all. But there is no doubt as to the importance of this story from the constitutional point of view.



or other was not unknown in this age. It is, therefore, impossible to agree with Richard Fick when he says that 'election by the people, as represented in the Vedas and the epics, is nowhere mentioned' and that 'if there is neither a male heir nor a kinsman who can succeed to the throne, the successor seems to be chosen by the ministers.'<sup>1</sup> (Dr. Richard Fick's *Die Sociale Gliederung im Nordöstlichen Indien zu Buddhas Zeit*, translated by Shishirkumar Maitra, Calcutta University, p. 125.)<sup>2</sup>

An instance of a deceased king's 'temporal and spiritual adviser,' being nominated by the courtiers, Ministers and election. over-riding the candidature of his son and successor, which is supplied by the Padanjali Jātaka, No. 247, has already been referred to. It appears from this story that the ministers had the right of refusing the throne to a claimant who was intellectually or otherwise deficient, thus rendering him unfit for the royal office. Here we find how Padanjali 'a lazy fellow, an idle loafer,' 'the only surviving son of a certain king of Benares, was not allowed to succeed because he was discovered to be a blind fool.' Another example is supplied by the Jāt. No. 284, where the courtiers chose an elephant-trainer (*hatthācariya*). The child of a poor man, born in the street, was once raised to the throne (Vol. IV, No. 387). The instance of a Brahmin having been anointed king is furnished in a Jātaka story (73, Vol. I). The observations of Dr. Fick in this connection deserve attention :—"The legendary character of this narrative does not allow this to be taken as a proof that kingship did not lie always in the hands of the *khattiyas* but that persons belonging to other castes might

<sup>1</sup> An instance of citizens, the royal priest and ministers meeting to elect a mere child as their sovereign, is recorded in the *Mahābhārata* (I. 44. 6) : *Rājāpurōhitastadā tathaiva te tasya nṛpasya mantrinaḥ nṛpaṁ sīsuṁ tasya sutaṁ prachakrire sametya sarve puravāsino janāḥ*.

<sup>2</sup> It is to be investigated if forms of election were different in different parts of the country.

occasionally be in possession of it. There are, however, some passages which seem to support such a theory. ....Even the law-books speak of kings who do not belong to the Kshatriya caste and understand by these kings of low origin who have usurped the throne." (Fick, pp. 126-27.)<sup>1</sup> It is apparent that though generally the filling of the vacant throne by choosing the deceased king's successor from his own family was more or less a formal ceremony with the courtiers, yet as we have seen above, his claims might be entirely disregarded by them in favour of a stranger, if he were found wanting in the requisite equipment of a ruler. Ministers are found examining the intelligence of a seven-year old prince before allowing him to ascend his father's throne (257). We are not in a position to accept all that is recorded in these legends as true, but the combined evidences of some Jātakas, induce us to think that there was some sort of procedure by which the intellectual and other faculties of the heir-apparent were in exceptional cases closely examined before he was installed.

About the interesting but highly controversial question of the origin of kingship, the Ulūka Jātaka says that *the first king* was chosen by an assembly of the people, *Atīte paṭhama kappikā sannipatitvā*, belonging to the first cycle of the world. The man selected, was a handsome figure, a commanding personality, endowed with all the auspicious marks of a perfect being (*abhirūpaṃ sobhaggappattaṃ aṇāsampannaṃ sabbā-krapariyuṇṇaṃ*, p. 352, Vol. II). Mr. K. P. Jayaswal shows that the physical fitness of the candidate was specially looked to in electing a chief. It was on the ground of defective appearance that the original election of 'Mr. Owl' as the King of birds was set aside on the motion of a certain crow,

<sup>1</sup> Here we are easily put in mind of the historic case of Mahāpadma who exterminated the Kshatriyas and ushered in an era of Śūdra government: *utpatyate Mahāpadmaḥ sarva-ksatr-āntako nṛpaḥ tataḥ prabhṛti rājāno bhaviṣyāḥ śūdra-yonayaḥ* (Pargiter's *Dynasties of the Kali Age*, p. 25),

who repeated his argument for its cancellation thrice with the permission of the assembly. This had followed the moving of a resolution by a certain bird to the effect that a vote should be taken on the matter before the decision that Mr. Owl had been elected, could be accepted as final. This brief report of the proceedings of an assembly of voters is immensely interesting to the students of the political institutions of our country. We can very reasonably infer that if the question of electing a sovereign ever came up before an assembly, the procedure followed was generally of the type disclosed in this story, and that there might be different candidates for the throne set up by different individuals or groups of individuals. In such cases of competition, it may be presumed, success depended upon the vote that ultimately expressed the decision of the House, bringing the debate to a conclusion.

We meet with a scene of tremendous outburst of popular feelings against the king and his family priest in the Khandahala Jātaka. The people put the *priest* to death and with sticks and stones hurried to kill the king himself in a fit of frenzied glee. His life, however, was spared with great difficulty. He was driven out of the city and thrown into an outcast-settlement (542), the only alternative for death fixed by the multitude. An unmistakable testimony to the capacity for organisation of the different communities into a common resistance to what was believed to be an arbitrary act on the part of a prince is furnished by the Jātaka No. 547, in a manner that cannot fail to arrest our attention. The Vessantara Jātaka informs us how its hero, the prince of Sivi, was banished from his father's kingdom at the bidding of the people in spite of the latter's expostulations, because he had given away a dearly prized elephant to the Brahmins of Kalinga. Here it is interesting to note that even servants of the king openly joined the movement. The

Popular revolts  
against monarchy.

king is addressed as '*the people's friend*'<sup>1</sup> in quite an unceremonious fashion. A mighty concourse, comprising diverse elements, but united in resolve and purpose, boldly asking for an explanation of the prince's conduct and finally compelling the king by the pressure of their opinion to accede to their demand, indeed presents a picture of absorbing interest.

"The prince<sup>2</sup> and Brahmin, Vesiya and Ugga great and small,  
Mahouts and footmen, charioteers and soldiers, one and all,  
The country landowners, and all the Sivi folk come by,  
\* \* \* thus to the king did cry.—

\* \* \* \* \*

'O Sanjaya, thy people's friend, say why this thing was done  
By him, a prince of our own he Vessantara, thy son.'

(P. 254, Vol. VI.)

And it is noteworthy that the people were not making a weak-kneed representation to their ruler. If the king failed to redress their grievances, well, they were not helpless in that case; they could then with perfect justification take the law into their own hands and usher in a revolution.

"The bidding of the Sivi folk, if ye refuse to do,  
The people then will act, methinks, against your son and you."

(P. 254.)

The king proposed to sacrifice his throne rather than an affectionate son, but the people demanded

"Not chastisement doth he deserve, nor sword, nor prison cell  
But from the kingdom banish him, on Vaṅka's mount to dwell."

(P. 255.)

The king replied,—

"Behold the *people's will* ! and that I will not gainsay."<sup>3</sup>

<sup>1</sup> The translation does not seem to be literal. The text has 'Sivinaṁ ratthavaḍḍhana' (Vol. VI, p. 490).

<sup>2</sup> Reference to 'rājaputtā' in this connection is curious.

<sup>3</sup> Eso ce Sivinaṁ chando chandaṁ na pānudamase (p. 491, Vol. VI).

In another Jātaka (No. 194) there is an instance of a vicious king having been slain under circumstances somewhat peculiar though interesting. Brahmadatta was a lustful king who wanted to have Sujātā, the wife of a peaceful villager, for his own enjoyment. On coming to know that the woman was married and, therefore, could not be easily got hold of, he indulged in a savage misuse of his royal power, had the husband arrested on a false charge and sentenced him to capital punishment. In this case the king stood guilty of two charges : first, he had violated one of the elementary rights of a free citizen, *viz.*, his right to live peacefully with his family, unmolested by the state, and secondly, by reason of his unlimited command over the resources of the state, he had engaged himself in a despicable intrigue for the satisfaction of his carnal desires. In the hands of such a king the fair name and dignity of the whole society were at stake. But this nefarious business was so cleverly done behind the screen that the people had no means of getting any scent of it. But Sakka, the people's god, was terribly affected; he came to the rescue. "So descending from the god-world, by his own power he dismounted the wicked king from the elephant on whose back he was riding, and laid him upon his back in the place of execution, but the Bodhisattva he caught up, and decked him with all kinds of ornaments and made the king's dress come upon him, and set him on the back of the king's elephant." The executioners lifted the axe and chopped off a head, but lo, it was the king's head. Thus the vicious king had to pay the penalty with his own life and the Bodhisattva was consecrated king with Sujātā, his wife, as chief queen, by Sakka who assumed a visible body (*dissamānakasārīren' eva*, Vol. II, p. 124). All this procedure was highly applauded by the ministers, the Brāhmaṇas, the gahapatis and others. (*Amaccā c' eva brāhmaṇagahapati-kādayo ca.*) Sakka in a verse asks the people to understand the 'reason why this man is slain' (p. 87, Vol. II). The

advent of Sakka is a mythical element in the story, but there is no difficulty, in our opinion, to follow the different stages in the progress of the narrative from the strictly historical point of view. Sakka is only a name to conjure with, symbolising divine approval of the great revolution, which was the triumph of the people's innate sense of justice, and also indicating the profound religious basis underlying the duties of a sovereign. The throne of Sakka 'that grew hot' merely represents the will of the people, incensed and fed by moral support.

The king's duty is to support law and order in this world.

King's duties, his position highly responsible. Popular ideas and sentiments about the subject.

If he is unjust or wicked, how will law and order be preserved? Such a king is believed to strike a discordant note even in the harmonious and uniform course of Nature,

for the screw is somewhere loose and the whole system is sure to be reversed. Things forego their natural properties, not to speak of the whole kingdom falling into chaos and sustaining a distinct loss of vitality. "Your Excellency, in the time of unjust kings, oil, honey, molasses and the like, as well as wild roots and fruits, lose their sweetness and flavour, and not these only but the whole realm becomes bad and flavourless." Everything is restored to its normal and natural state when the rulers become just (*Rajovada Jātaka*, No. 334). The king has a good deal of responsibility even if people suffer on account of Nature's failure, as if this were due to some guilt on the part of the king himself, for which he must sufficiently atone. Once in the kingdom of Kalinga there was no rainfall at the proper season, which brought about a famine in the land. The people came to the king and asked him to do what his predecessors (*Poranakarājāno*) had done under similar circumstances. He must give alms, observe the holy day, take the vows of moral purity and for a period of seven days lie down on a bed of grass in his chamber (*śirigabbha pavisitvām dabbasanthare*, p. 368,

Vol. II). He passed through all these austerities but yet there was no rainfall. He was next asked by the people to do something else. Thus the position of the king was not at all very enviable; for him life was never a bed of roses. An oppressive ruler is held responsible and is accursed for all sorts of sufferings imaginable, which may ever fall to the lot of men, in addition to those that are directly due to his own conduct. An old man's foot is pierced with a thorn,—that is due to the king; the anxious mother of two grown-up unmarried daughters falls down from a tree and cries out in frantic anger, 'Oh, when will Brahmadatta die, for long as he shall reign our daughters will live unwedded, for there will be no husband for each maid?' The ox of a peasant is accidentally struck with his ploughshare and for this Brahmadatta again is to blame. The village boys curse him and even a frog does not spare him when it is beaten with a stick (No. 194). When an impious king rules, God sends rain out of season, and in season he sends no rain. Three kinds of fear overcome men, *viz.*, fear of famine, fear of pestilence, fear of the sword.<sup>1</sup> (See also No. 276.)

It is striking to a degree that such revolutionary changes as the deposal or assassination of a tyrant and the consequent election of a successor, instances of which are noted in the Jātaka literature, are shown to have been brought about in the most peaceful manner apparently without causing any unnecessary bloodshed or, in the least, disturbing the equilibrium of the state. We pause to enquire how this was possible. The reason was two-fold. Subjects must have possessed something like a universal grounding in political education so that they were always anxious to avoid the horrors of a bloody revolution.

Revolutions, not  
marked by any great  
violence. Probable  
causes.

<sup>1</sup> Chātakabhayaṃ rogabhayaṃ satthabhayaṃ ti imāni tñhi bhayāni (Vol. II, p. 125). The text is a little different in the Kurudhamma-jātaka (276, Vol. II, p. 368).

There are reasons to believe that the majority of people were generally on the side of sanity and reasonableness, which they were not tempted to sacrifice under the impulse of the moment. Their influence upon the rest of the population was thoroughly wholesome inasmuch as they knew how to control the disintegrating forces that usually appear in the wake of a political struggle. We must not imagine that a tyrannical king was always without his supporters, and that when he was overthrown or killed there was no opposition from any quarter against this act. We should not also err in thinking that in every case election to the throne was uncontested and unanimous. Party politics with their consequent effects on administration are phenomena too common and familiar not to have been present in this country, and the general silence of the Jātakas on this point should not, to my mind, be taken as an evidence to prove their non-existence. We may refer in this connection to the Uluṅṅ Jātaka again which mainly deals with the procedure of a contested election in an assembly, where the whole business was carried on in an orderly and constitutional fashion. The truth of the matter is that whatever different opinions might exist amongst men and parties, there was a deep, abiding and universal respect for the essentials of law and justice and the established usages of the land. Add to this wise and competent leadership which must have co-operated in a large measure with the people's appreciation of right and responsibility in keeping the situation well under control. There are, however, some instances of the destruction of entire kingdoms along with their rulers, but there is no doubt that they are to be referred to a comparatively remote antiquity when people had not yet made much advance in political training.

The qualities of the people, to which we have already referred, were not, in our opinion, solely responsible for the preservation of internal peace and order even in the face



of violent outbursts of popular temper. If they bore any grudge it was against their *ruler*, only because he had corrupted the whole administrative system by his personal influence. It was not their intention to make this an opportunity for introducing any thoroughgoing reform into the existing order of things and thus confuse the issues with which they had started. The overthrow or murder or exile of a king was not in those days considered to be a thing of so far-reaching consequences as to have been necessarily productive of violent effects on the deep-rooted socio-political institutions of the land. These were by no means modelled or planned in such a manner as to break up immediately a king was removed only to be followed by a worthy successor. Then again, we must carefully note that the powers and prerogatives of kings were of a strictly limited character. In the Jātaka No. 96, where a yakshini—an ogress,—requests a king of Gandhāra to hand over the government to her, the king replies in the following manner: “Sweetheart, I have no power over those that dwell throughout my kingdom, I am not their lord and master. I have only jurisdiction over those who revolt or do iniquity. So I cannot give you power and authority over the whole kingdom. (Bhadde, mayhaṃ sakalaratṭhavāsino na kiñci honti, nāhaṃ etesaṃ sāmiko, ye pana rājānaṃ kopetvā akattabbaṃ karonti tesaṃ ñevāhaṃ sāmiko ti iminā kāraṇena, na sakkā tuyhaṃ sakalaratṭhe issariyaṃ ca āṇaṃ ca dātun ” (see p. 39c, Vol. I). A king with such a restricted jurisdiction cannot be said to be ever so connected with the constitution that any injury done to him individually may spell disaster to the whole political order and cause a permanent deadlock in the administration. The number of cases, it may be noted in this connection, where kings make over the administration to their courtiers without giving rise to any constitutional crisis, is not small (see Nos. 406, 459, 496, 499, 504, 539, 544). It is thus, after all, not very difficult to understand how it was possible for revolutions

to have been so remarkably free from violence, shattering the whole fabric of the state and radically changing the entire national life and outlook, with all the usage and traditions of the country, in a convulsive manner. The mentality of the people remained on the whole unaffected by these temporary disturbances. We must remember that we are dealing with a period which knew no deification of kings, such as, for example, we find in Manu and other later Smṛiti writers (see Shama Shastri's *Evolution of Indian Polity*, pp. 145-146, we refer specially to Manu, V, 96-97, VII, 4-8). ("This picture of a king being a deity in human form, as drawn by Manu in the above verses, should be contrasted with the picture of a king, portrayed as a mere mortal in the Vedas and the Arthaśāstra," *Indian Polity*, p. 146.) Though the learned scholar refers to some Jātaka stories in this connection, yet we wish he had made a more prominent mention of them giving them an equal status with the Vedas and the Arthaśāstra. It may be pointed out here that the entire statement made by the Gandharan king in No. 96, about the limitation of his powers, is not borne out by the testimony of some other stories. So far as the *definition of his position as ruler of Takkaṣilā* is concerned, there is nothing in the whole Jātaka literature, as far as we can see, to contradict it and let us frankly confess that we do not take it as indicating the state of affairs in Gandhāra alone, but in the whole of India, known to the Buddhist Birth-stories, wherever popular government existed in some form or other. But when the king of Gandhāra denies his right of transferring the lordship of his people to another, he may be challenged by a number of princes, whose conduct is not at all regarded as something wrong, amounting to an actual invasion of the cherished rights of anybody. For instance, we may refer to the Jātaka No. 254, where the king parts with a half of his kingdom, in favour of a horse-dealer; No. 421, where Brahma-datta divides his kingdom into two parts (Rājā rājjam dvidhā

bhinditvā) and gives half to a jolly poor fellow; and, again, to No. 140 where another Brahmadatta lays his kingdom at the feet of a Bodhisatta (one Mr. Crow), who refuseth it. These might be mere legends without any foundation in truth, but that is a matter which may not be so easily decided. We may refer to the Kauṭilya's Arthaśāstra, which alludes to a form of government, known as Dvairājya, *i.e.*, "the rule of a country by two kings" which 'perishes owing to mental hatred, partiality and rivalry' (see Shama Shastri's Translation, p. 395; Dvairājamanyonyapaksha-dvesānurāgābhyām parasparasam-gharṣeṇa vā vinaśyati, p. 323). For other instances we ask our readers to refer to Mr. K. P. Jayaswal's Hindu Polity, pp. 96-97. We wonder how kings could be so arbitrary in their conduct in an age when their powers were of such a distinctly limited character as shown in some other Jātakas, specially No. 96. After having given our consideration to this point, we feel disposed not to attach much value to the evidences, contained in some isolated legends, which run counter to our strongly formed impressions about the general characteristics and tendencies of the period, based on a study of more reliable material.

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## CHAPTER IV.

*A bird's eye view of the whole career of kings from birth to death: education, political training, ceremonies, court rivalry, intrigues, etc.*

When a queen conceived, it was made the occasion for the performance of such rites as were proper to her state (laddhagabbhaparihāro, No. 151, Vol. II). When Nālakara was conceived by the chief queen in Videha, she brought the matter to the notice of her husband who did what was usual on such occasions (489, Vol. IV). Probably it included the ceremony known as gabbharakshaṇa, which Bühler explains in his chapter on Ritual-Literatur in Grundriss der Indo-Iran, p. 43. It was usual to give the new-born babe a name on his name-day (nāmagahanadivase). From the moment of his birth the prince was taken charge of by the female nurses of the palace. An interesting incident is described in the Jātaka No. 263, Vol. II, where a prince was born with a deep disgust for women as a class. 'So soon as he was born, he was bathed and given to a serving woman to nurse (dhatiya). As he took the breast, he cried. He was given to another; but while a woman held him he would not be quiet. So he was given to a man-servant and as soon as the man took him, he was quiet (pādamulikassa adamsu, p. 328, No. 263). After that men used to carry him about. When they suckled him, they would milk the breast for him, or they gave him the breast from behind a screen.' It is a curious legend. Not much light is thrown on the activities of young princes up to the age of 16.

Career from the  
16th year—education  
and going abroad.

On their attainment of the 16th year (*viññutampatvā solasavassapadese*, p. 273, No. 55, Vol. I), they became discreet enough and were considered fit for going abroad with a view to educate themselves at the feet of world-renowned teachers. They generally went to Takkasilā, which was noted as the foremost centre of Indian culture in those days. Instances, however, are rare where princes at the age of 16 are mentioned as having already completed their education and holding some important posts in their fathers' states (*Jātaka* No. 50, Vol. I). The custom of sending princes to distant countries for their education was not at all held in disregard, for their parents were opposed to the idea of bringing up their children amidst the environments of a court-life, abounding in all sorts of luxuries, pleasures and comforts; they were particularly solicitous for promoting, to the fullest extent, the development of all the manly faculties of their children. By going abroad for the purposes of education, these princes, it is said, would acquire valuable practical experiences about men and affairs in general and learn to be inured to hardships and difficulties making their physique strong and sound, frequently requiring to bring their spirit of adventure into an active play, and rounding off the angularities bred by an aristocratic isolation. 'Now kings of former times, though there might be a famous teacher living in their own city, often used to send their sons to foreign countries afar off to complete their education, that by this means they might learn to quell their pride and highmindedness and endure heat or cold and be made acquainted with the ways of the world' (No. 252, Vol. II, '*Porāṇakarā jāno ca attano putte evam ete nihata mānadappā sītunhakhamā lokacārittaññū ca bhavissantīti*', p. 277). Thus the objects which education in this period was desired to aim at were the most practical in their nature and there is no doubt that its effects on individual as well as social life, industries, trade and commerce, were intensely beneficial and progressive.

A conventional list of the subjects of study at Takkasilā is to be found in many Jātakas, which comprised the three Vedas and the 18 or all the liberal arts (tayo vede sabbasippam, 338, atthārasannaṃ vijjaṭṭhānānaṃ, 50). These also formed the course of study on the part of a Brahmin student (No. 80). The usual fee (bhāga), which a prince had to offer to his teacher amounted to a thousand pieces of money (sahassam, 55 or Kāhapanasahassān, No. 55, No. 252). There were two classes of students :—those who paid fees to their masters, called acariyabhāga-dāyakā, and those who did not bring any fee but offered their services in lieu for it, known as Dhammantevāsikā. The former were a privileged group, treated like the eldest sons in the houses of their teachers, and getting their lessons probably at day-time, while the Dhammantevāsikas had to attend on their teachers by day and were taught at night.

It was the custom to hand over the fee to the teacher at the commencement of one's study. The details noted in the Tilamutthi Jātaka (No. 252) regarding the preliminaries which had to be settled between teacher and taught on the eve of a candidate's admission as a student, are, I think, sufficiently attractive to deserve more than a passing reference here. "He (*i.e.* the prince of Benares) bade his parents farewell, and in due course arrived at Takkasilā. There he enquired for the teacher's dwelling and reached it at the time when the teacher had finished his lecture and was walking up and down at the door of the house. When the lad set eyes upon the teacher, he loosed his shoes, closed his sunshade and with a respectful greeting stood still where he was. The teacher saw that he was weary, and welcomed the new-comer. The lad ate, and rested a little. Then he returned to the teacher, and stood respectfully by him.

"Where have you come from ?" he asked.

"From Benares."

"Whose son are you ?"

“ I am the son of the king of Benares.”

“ What brings you here ?”

“ I come to learn,” replied the lad.

“ Well, have you brought a teacher’s fee ? Or do you wish to attend on me in return for teaching you ?”

“ I have brought a fee with me,” and with this he laid at the teacher’s feet his purse of a thousand pieces.”

\* \* \* \*

The system of education prevailing in those days, did not favour anybody, be he rich or poor, and the prince from Benares is found walking alone in the streets of Takkasilā enquiring about his master’s dwelling. He had to come in the robe of an humble student, leaving aside the equipage of a prince, fully conscious of the fact that he was now placed in a situation which did not recognise any earthly distinctions. But we must also note certain lapses on the part of these aristocrats, reminding us of the notorious pranks of some of the students of mediæval Europe. However stringent the moral code may have been, it was not always possible for a hot-blooded Kshatriya youth to be amenable to an unsparing system of moral and intellectual discipline. If a prince committed any offence or became unusually boisterous, defying all rules and regulations, then it was the clear duty of the teacher to offer him advice, chastise him, or even beat him according as the wrong done was mild or serious. But unfortunately the proud Kshatriya lad would readily construe all this as an insult and plan to avenge it by murdering his teacher after his return to his country when, as its ruler, there would be no dearth of means on his part to carry out his evil intentions (252). The prince of Benares, who had been so well-behaved at the beginning, soon displayed a thieving propensity, calling for the immediate attention of his professor. But note how the latter was served from the following extract:—

“ Now, one day, he went to bathe along with his teacher.

There was an old woman, who had prepared some white seeds, and strawed them out before her : there she sat, watching them. The youth looked upon these white seeds, and desired to eat ; he picked up a handful, and ate them. 'Yon fellow must be hungry,' thought she ; but she said nothing and sat.

"Next day the same thing happened at the same time. Again the woman said nothing to him. On the third day, he did it again ; then the old dame cried out, saying 'the great teacher is letting his pupils rob me !' and uplifting her arms she raised a lamentation. The teacher turned back, 'what is it, mother !' he asked. 'Master, I have been parching some seeds, and your pupil took a handful and ate them.' This he had done to-day, he did it yesterday and he did it the day before ! Surely he will eat me out of house and home !'. 'Don't cry, mother : I will see that you are paid.' 'Oh, I want no payment, master : only teach your pupil not to do it again.' 'See, here, then mother,' said he, and he caused two lads to take the young fellow by his two hands, and smote him thrice upon the back with a bamboo stick, bidding him take care not to do it again. The prince was very angry with his teacher. With a bloodshot glare, he eyed him from his head to foot. The teacher observed how angry he was and how he eyed him. The youth applied himself to his work and finished his courses. But the offence he hid away in his heart and determined to murder his teacher. When the time came for him to go away, he said to him, 'O my teacher, when I receive the kingdom of Benares, I will send for you. Then come to me, I pray.' "

The story goes on to say how the Brāhmin came to Benares in fulfilment of the promise he had given and how his life was saved from a very cowardly attack at the request of the king's courtiers, who were attracted by the very convincing speech which the teacher had delivered on the usefulness of discipline in the early stages of one's life. In course of this address he pointed out to the king that if he had not been



taught discipline, he would have gone on taking cakes and sweets, fruit and the like until he became covetous through these acts of theft; then by degrees turned on to house-breaking, highway robbery and murder about the villages. Instances of this kind are to be found in some other Jātakas also. One teacher advises his pupil, a prince, to suppress the cruelty and violence of his nature, as power that is attained by violence does not last long and when it is gone, one's condition becomes like that of a ship wrecked at sea (353).

Teachers' interest in political matters.

Some teachers in the distant city of Takka-silā certainly took a good deal of interest in procuring information about the internal affairs of the different kingdoms from their representatives, *viz.*, the princes who came to study in Gandhāra. On the basis of these reports they were able to form a somewhat definite idea regarding the prospects of their pupils in their own countries and the dangers they were likely to face in the near future. Besides this, they must have had a general notion about the motives that inspired struggles and rivalries in the field of politics and how these could be cleverly countered without any bloodshed. Certain pieces of advice, profoundly practical and often couched in verses, which teachers offered to their pupils on the eve of their departure, proved remarkably useful in averting calamities, immediate or remote (338, etc.). With the help of his teachers' verses a king stupefies a plotting son (462). A teacher at Takkasilā presents five weapons to a prince when he starts for home after the end of his studies, with the help of which he defeats a very powerful enemy on the way (55). There is an instance of a king making arrangements for the education of his hundred sons (No. 462), placing each of them under the charge of a separate courtier. This, we should note, is opposed to the prevailing practice of sending princes abroad for education, which we have already described. The courtier who takes charge of the youngest prince in the above story, imparts to him something

more than a mere academic education. The advice that he gives him at the termination of his course of studies, is the outcome of deep political thinking, and secures for the prince the throne of his father, easily barring the claims of his '99 brothers.' We shall have an occasion presently to refer to it in detail.

On coming back to his country, the prince impresses his father by his varied accomplishments and is appointed to the post of Uparāja or Viceroy.

Completion of the course, affairs at home. If he is the only son of his father, there is no danger ahead and nothing unusual happens. He can confidently expect to be led on to the throne by the choice of the courtiers on his father's demise. But in many cases he has at least one brother, if not more, standing in the way of his succession, and suddenly on the death of the aged father there is an outburst of jealousies, which soon develops into a bitter fratricidal quarrel. The youngest of a king's hundred sons consults some *Pacceka Buddhas* regarding his prospects of succession and finding that he has none, he leaves the country and goes straightway to Gandhāra (96). Of two brothers the elder becomes Uparāja on the completion of his education and the younger is appointed as Commander-in-Chief. When the father dies, the elder is placed on the throne and the younger comes to serve as Uparāja. A slave reports to the king that his brother is secretly planning to put him to death. He becomes suspicious and keeps his brother a prisoner in a certain house, not far from the palace. The man somehow manages to make good his escape and comes back with a vast army, reinforced by a large number of ardent followers from his own country and invites his brother either to surrender the throne to him or give battle. A fight ensues in the course of which the elder brother, the reigning king, is killed and now the younger brother easily ascends the throne (539). In Jat. No. 467, the elder brother serves as Uparāja during the life-time of his father, and the younger as Commander-in-Chief. The courtiers

want to make the elder son king by the ceremonial sprinkling, but he is overtaken by a feeling of disgust for the kingdom, which at his suggestion, is offered to the younger brother. But within a short time he gets rid of this temporary fit of generosity and is gradually tempted to seize the kingdom, to which end he proceeds with a host of supporters towards the capital. He tenders an ultimatum to the king, who, finding discretion to be the better part of valour, abdicates the throne and gets himself appointed as Uparāja under his elder brother (467). A king on his death-bed recommends that his elder son should be his successor and the younger, Prince Brahmadatta, heir-apparent (oparajjam dethā). But as the elder does not like to rule, the younger is consecrated as king. Here too slaves are at the root of the evil—they poison the ears of the king by means of false and unfounded reports against the elder brother, who is taken prisoner. Afterwards in sheer disgust he leaves his brother's kingdom and earns his living by archery in a foreign country (181). A king wants to arrest his brother who is Uparāja. The latter goes away to save his life (469-App.). A well-known family-intrigue is referred to in the Dasaratha Jātaka (461, App.).

Kauṭilya in his Arthaśāstra informs us that in the opinion of Bharadvāja 'princes like crabs have a notorious tendency of eating up their begetter.' (Dr. S. Shastri, p. 37; karkatas kasadharmmano hi janakabhakshah rājaputrāḥ, ascribed to Kauṭilya in the original, p. 32.) There are a good many examples of this tendency to be found in the Jātaka literature, clearly showing that the above statement is not in the nature of a commonplace theoretical speculation, so often met with in a text-book on state-craft. A prince of 16 years of age is tired of waiting for his father's death. He resolves to kill his father in order to hasten his accession to the throne. He thinks of trying four expedients, one after another:—(1) administering poison to his father's food,

Father and son, relation not always happy.

(2) taking his stand amongst his father's councillors at the time of the great levee and striking him a blow with his sword when off his guard, (3) stabbing him at the top of the stairs in the royal closet, (4) hiding himself beneath the couch in the king's chamber on the upper floor of the palace with a view to kill him as soon as he enters the room. Three out of these four plans are suggested by his attendants who are of the opinion that it is no good getting kingdom when one is old. But every time the impatient prince proceeds to carry out one or other of these plans, he is checked by the fear of detection at the moment of execution, as his ever-watchful father repeats to himself one of the corresponding stanzas, given below, which he learnt from his teacher at Takkasilā.

- (1) " With sense so nice, the husks from rice  
Rats keen are to discriminate  
They cared not much the husks to touch,  
But grain by grain the rice they ate.
- (2) The secret counsel taken in the wood  
By me is understood.  
The village plot soft whispered in the ear  
That too I hear.
- (3) A monkey once did cruel measures take  
His tender offspring impotent to make.
- (4) They cautious creeping ways  
Like one-eyed goat in mustard field that strays,  
And who thou art that lurkest here below,  
This too I know."—Vol. III, pp. 81-82.

The boy finally throws himself down at his father's feet praying for forgiveness. But the king has apparently no faith in this submissive spirit of his son, who is judged by his conduct alone. He is bound in chains, put into the prison house and a guard is set over him. This seems to be quite in agreement with the policy, which, as Kauṭilya tells us, is to be followed

according to Viśalaksha in dealing with princes wanting in filial affection. "It is better to keep them under guard in a definite place" (p. 37, Shastry); (*nṛsansamadr̥stabadhah kshat-ravijavinasasceti tasmadekasthānāparodhassreyāniti*, p. 32). Another king of Benares, afraid of his son, bids him leave the city. Accompanied with his wife, the son comes to a village of Kāśī and lives there during the rest of his father's life (233). An exactly similar incident is described in Jāt. No. 320, where the father thinks of his son, who is acting as Uparāja, in the following terms—"This fellow may do me wrong, if he gets an opportunity." The son goes away from the city and dwells in a village with his wife. The machinations of a young prince, acting as Uparāja, are revealed in Jāt. No. 373 (see App. 'Yava'). He cannot afford to wait till his father's natural death, when he will be a worn-out old man. His advisers point out the absurdity of the idea of his going to the frontier and openly revolting against his father. Several expedients are proposed, *viz.*, (1) killing him near the bathing ghat, (2) stabbing him at the foot of the stairs, (3) killing him by a blow of a 'spoon-shaped instrument' with its long handle poisoned. The son is put in chains and thrown into prison (373). A king's son who is appointed Uparāja after completing his education at Takkasilā wants to kill his father and when the kingdom is attacked by a foreigner, he leaves the city with the whole population following him, thus making it impossible for the king to defend it against his enemy. He flees away with his wife and priest and the son now comes back to occupy the throne (416). A prince actually puts his father to death and in this case also the parricide is helped by his attendants. The thought that made the prince restless and finally drove him to the crime is pithily expressed in the following words:—"My father is more like a brother; if I shall wait for his death, I shall be an old man before I succeed to the crown. What good will it do me to get the kingdom then? I will kill my father and

make myself king ' (530).<sup>1</sup> The four sons of a king are determined to murder him, not for the sake of satisfying any political ambition, but for avenging the death of their mother, who was executed at the command of the king, putting his faith in a scandalous and unfounded report against her (528). The idea is, however, given up at the request of a learned man. In the Bhūridattajātaka (513) we have one more instance of a king, who does not feel perturbed in the least in ordering the heir-apparent to accept a life of temporary exile from the city.

Women of the king's harem are very often corrupt and immoral to the extreme. Even the chief  
 King's harem. queen does not consider twice before committing some grave sexual offence. The ideal of female chastity is remarkably low. The seraglio is frequently a den of abominable vices, corruptions and intrigues, which not only disturb the peace of mind of many a king but sometimes cause political turmoil and unrest, fomenting enmity between neighbouring kingdoms. A king sets out to quell a disturbance on the borders of his kingdom, (piccanto) and at the request of his chief queen he sends one messenger at the end of every league to enquire about her health. He sends 64 messengers in all, but the queen is so vicious that she misconducts herself with every one of these and then tries to tempt the royal chaplain who is strong enough not to be allured. He relates the story of the queen's conduct to the king on his return from the expedition. The king orders all the 64 men to be beheaded. The chaplain now makes a passionate appeal in their behalf. "The men are not to blame, for they were constrained by the queen. Wherefore pardon them. And as for the queen,—she is not to blame, for the passions of women are insatiate, and she does

<sup>1</sup> Mayhaṃ pitā mama bhātisadiso, sace etasa maraṇaṃ olokessāmi mama mahallakakāle r. labhissāmi, tadā ladhena pi rajjena ko attho, pitaraṃ māretvā r. kāressāmiti—Vol. V, p. 263).

not but act according to her inborn nature. Wherefore pardon her also." It is impossible for the king to oppose the logic of this argument (No. 121). The course of politics is so wicked that even a father cannot trust his sons. A certain king has seven sons. When they attain their youth, their father begins to entertain suspicions about their movements and though there is no evidence of any guilt, they are one day called to his presence and asked to keep away from the capital till his death, after which they should return and take possession of the kingdom. A courtier carries on intrigues in the harem, but the king is placed in a dilemma as to what should be done ; he cannot dismiss either the minister, whose services are so very valuable, or the woman, who is so dear to him. He consults the paṇḍit-āmacca, describing the courtier as a jackal, himself as a lion, and the woman in the harem as a happy lake....." Sheltered at the foot of a lovely hill." The advice of this counsellor was—" Out of the mighty river all creatures drink at will. If she is dear, have patience, the river is river still " (195). A courtier who is guilty of a similar offence, reports to the king that a servant of his has corrupted the women of his own house and thus betrayed his trust. The king gives his opinion in the following verse:—" I too a jealous servant have ; and here he stands ! Indeed ! Good men, I trow, are rare enow. So patience is my rede " (225). A case of the abduction of the chief queen of Benares by a Garuḍa king of the island of Serumā is available (360, see App. 'Tamba'). The son of a royal priest has illicit connections with the wife of king Maddava. With the king's permission he enjoys her for seven days and then both of them abscond. The king is afterwards reconciled to his fate, thus thinking within himself: ' If she loved me, she would not forsake her kingdom and flee away. What have I to do with her when she has not love but fled away ? ' (401-App.).<sup>1</sup> The

<sup>1</sup> " aham attano manena'eva purohitaputtassa devīm datvā sakamanam sandhāretum

king is apparently a true champion of free love as propounded in modern times.<sup>1</sup> The blood-curdling story of a wife's betrayal is told in Jāt. No. 416. When his kingdom is invaded by a hostile prince, the king flees away with his queen, his household priest and an attendant, named Parantapa. They build a small hut in a forest where they live together in disguise. The queen sins with the servant, encourages him to kill her husband in the following words: "If the king knows, neither you nor I would live; kill him." Asked as to how the murder can be accomplished, she replies, "He makes you carry this sword and bathing dress when he goes to bathe: take him off his guard at the bathing place, cut off his head and chop his body to pieces with the sword and then bury him in the ground." The priest secretly witnesses the murder of the king, but feigns ignorance of it. The posthumous son of the king, on attaining his 16th year, is one day taken near the spot where his father was killed before his birth and is thereafter trained by the priest in the art of handling a sword. The boy kills Parantapa and thus avenges the death of his father (416). A chief queen falls in love with her stepson, a prince of uncommon beauty, and tries to seduce him but he remains firm, saying, "Mother, my mother you are, and you have a husband living. Such a thing was never before heard of, that a woman, a matron, should break the moral law in the way of fleshly lust. How can I do such a deed of pollution with you?" (472). We have on many occasions referred to the traditional rivalry between Kāśi and Kośala and it may be useful to remember in this connection the part played by ex-ministers of Kāśi in the repeated invasion of that

na sakkomi, socāmi kilamāmi, na me idam. anucchavikaṃ, sace mayi sasnehā bhaveyya idam issariyaṃ chaḍḍetvā na palāyeyya. mayi pana sineham akatvā palātāya kiṃ tāya mayhan'ti (Vol. III, pp. 340-341).

<sup>1</sup> The hero of Galsworthy's novel, 'The Island Pharisees,' thus speaks ironically: "If old Halidome showed that he was tired of me, and I continued to visit him, he'd think me a bit of a cad; but if his wife were to tell him she couldn't stand him, he'd still consider himself a perfect gentleman if he persisted in giving her the burden of his society."



kingdom by some princes of Kośala. Though the Jātakas are full of such revolting pictures of the corruptions of the harem, it should not be supposed that these accounts give us a perfectly unbiassed and genuine representation of the court-life during the period under review. There is a definite propaganda behind some of these legends.<sup>1</sup> A story of immorality, when once circulated, may be easily multiplied in a hundred different forms. It should be noted, however, that as some of the scandals seem to be connected with historical consequences, they may be based on a substratum of truth though, of course, overlaid by exaggerations. We may conclude with the following observation from Cowell's Preface to the Jātakas—"Like all collection of early popular tales they are full of violence and craft, and betray a low opinion of woman ; but outbursts of nobler feeling are not wanting to relieve the darker colours " (Vol. I, p. x).

Princes marry after their return from Takkasilā.

Marriage.      Uparājas have their wives, who follow their husbands even unto exile. Matrimonial rules

in royal families appear striking in some cases. Marriages between nephews and nieces were in vogue as shewn in the Mudupāṇi Jātaka, those between brothers and sisters are celebrated in Jātakas in Nos. 458, 461, where they afterwards succeed as kings and queens in their respective countries. The son who is destined to become king, must be married before consecration on which occasion the husband and the wife are to be installed as king and queen. In a previous chapter we have referred to the fact that instances of matrimonial connection between different ruling houses are not rare. In some cases, however, even responsible and wise-headed kings are found not particularly anxious for preserving the sanctity of the royal blood, and in making their erratic choice they are guided by considerations of beauty and

<sup>1</sup> This has been discussed more fully in my work on the Cultural Outlook of the Age of the Buddha which will be soon published.

health alone. A king happens to see a country woman (janapaditthi) who is very strong, neat and modest. He takes a fancy to her and makes her his chief queen (108). Another king falls in love with a young and beautiful daughter of 'a fruiterer selling jujubes in the streets of Benares' (paṇṇikadhītā abhirūpā paṭhemavayā thitā). He marries this country girl and raises her to the dignity of queen consort (306). But the king must be satisfied that the woman, he takes a fancy to, is still unmarried. Any unmarried woman may be admitted into the harem to adorn a new rôle which a moment before was beyond all her earthly expectations.

A prince may be installed on the throne during the lifetime of his father but he does not rule as a king so long as his father lives.<sup>1</sup> It is after his death that he assumes the reins of sovereignty. The ordinary rule, however, was for the prince to wait till his father's death and then to seek election in the hands of the courtiers. A separate palace is built for a Vaideha prince on the occasion of his ceremonial sprinkling (489). It is quite likely that at the time of accession the king was under the obligation of taking an oath of just government, which was regarded as forsworn if he proved a bad ruler (521). The consecration is done by the royal priest and all sorts of public merry-making are indulged in at the time. When Kusa, son of Okkako, comes to the throne, the occasion of sprinkling is marked by the release of all prisoners. We hear of a drinking feast, held for a period of seven days, on the occasion of an installation.

Habits and idiosyncracies attributed to several kings in the Jātaka literature, call for special notice because they help us to study at close quarters and from the popular point of view the temperaments of ancient Indian rulers, also to have a

\* Character, hobbies, habits, etc.

<sup>1</sup> The Culāsutasoma Jātaka (Vol. V) shews that this practice was not universally observed.

glimpse of the workings of their inner minds when they are free from their state-duties. Indeed they appear to us surrounded by a naive splendour of crude exaggerations and fantasies, woven round their daily life and character. Some of them are distinct personalities with their characteristic whims and caprices sufficiently stressed. The Jātaka stories are replete with fine character-sketches drawn in a manner appealing to the popular mind. A king interests himself in knowing the cause of the sudden ailments of the state-elephant (mangalahatthi) called Mahilamukha (26), and another of a state-horse called Pandava (84). A king wants his ministers to proclaim by beat of drum his resolution of realising a vow that he took in the days of his viceroyalty of offering a sacrifice in honour of a tree. Nothing can be more ghastly than the purport of the proclamation which reads thus: "All such as are addicted to the Five Sins, to wit the slaughter of living creatures and so forth, and all such as walk in the Ten Paths of Unrighteousness, them will I slay, and with their flesh and their blood, with their entrails and their vitals I will make my offering" (50). It is a great relief to find that the decree was never executed, as the people were intimidated into giving up their wickedness and thus save their precious lives. One is tempted to institute a contrast between the method of this king and that of Asoka, the great Buddhist Emperor of the 3rd century B. C., though both are to a certain extent actuated by the same object of carrying on a moral propaganda on an extended scale. A king of Magadha is strangely jealous of his state-elephant on account of the high praises bestowed upon it by an admiring crowd of citizens and resolves to kill it by casting it over a precipice (122). A king 'of a somewhat covetous nature,' possessing 'a brute of a horse' is very much prone to mischief (158). Certain merchants from Uttarapatha come with 500 horses to sell them to the king who wants to get them at a small price by using violence in which the savage horse plays

a prominent part. Thus he advises one of his ministers to carry out his intention, which though cruel, is not devoid of humour—"Friend, make the men name their price; then let loose Big Chestnut so that he goes amongst them; make them bite them, and when they are weak and wounded get the men to reduce their price." King Dadhivāhana is found taking pleasure by casting a net into a river (186). When the net is drawn out, a mango is found sticking to it. The king does not know what name to give it. Foresters tell him that it is a mango. He eats it up and is delighted with its delicious taste. The joy that attends the discovery is great. The stone is planted in his park and in the course of three years it grows into a big tree bearing fruits. "Great was the worship paid to this tree; milk-water was poured about it; perfumed garlands with five sprays were hung upon it; wreaths were festooned about it; a lamp was kept burning and fed with scented oil ..... " King Dadhivāhana sends presents of these fruits to other kings, just to arouse the desire of these princes to grow the precious tree in their own kingdoms, taking at the same time sufficient care that the reputation of his country may not be shared by any other. "Dadhivāhana used to prick with a thorn that place in the stone where the sprout would come from, for fear of their growing the like by planting it." This protective measure is, on the face of it, inspired by a certain amount of narrowness, but since the dawn of history has not narrowness been at once the shame and pride of patriotism even in the most refined souls? Many kings have great powers of appreciation; they are attracted by anything peculiar or extraordinary, and are unstinted in their admiration, encouragement and patronage (149, 250, 254, 376, etc.). Talkative kings are known (215, 331). One king is so very garrulous that when he begins to speak, there is no end of his talking, leaving any chance for any other to get in a word. A minister is on the look-out for a suitable

parable in order to induce the king to give up this undesirable habit. He succeeds in convincing the king of the necessity of 'speaking wisely and speaking in season.' In another Jātaka a minister advises his master to avoid prolixity, to be thorough, discreet and well-restrained in speech, in the following verse—

“ The sage his measured words discreetly guides,  
Nor rashly to his second self confides.  
Before he speaks will prudent counsel take,  
He goes to trap as Garuḍa, the snake.”

All these remind us of the stories of Pañcatantra, where kings are taught wholesome lessons with the help of familiar illustrations. A certain king is fastidiously extravagant and dainty so far as his meals are concerned (260). “ When he ate, he ate not within doors ; but as he wished to confer merit upon many people by showing them the costly array of his meals, he caused a pavilion adorned with jewels to be set up at the door, and at the time of eating, he had this decorated, and there he sat upon a royal dais, made all of gold, under a white parasol with princesses all around him, and ate the food of a hundred delicate flavour from a dish which cost an hundred thousand pieces of money.” An indolent king is corrected by his *amaccaratna* while taking a walk in his company in the royal garden (345). A king is about to be initiated into the habit of drinking wine, from which he is prevented by divine intervention. “ If he shall drink strong drink, all India will perish : I will see that he shall not drink it ” (512). One king proclaims by beat of drum throughout the city that he gives protection to all creatures, which is opposed by the people purely for practical reasons. From that time onwards no one dared ‘ so much as raise hand against beast or bird ’ (482). One of the Brahmadattas of Benares gives 500 hermits, who are his guests, a large

supply of the best spirits, knowing that such things rarely come in the way of those who renounce the world and its vanities (81). A king causes an inscription to be made upon a golden plate, which is enclosed in a casket (159) (*Suvannapaṭṭe likhāpetvā paṭṭam*). Some kings are awfully anxious not to waste a single moment on worldly matters after the advent of old age. Barbers are, therefore, directed to report the appearance of the first gray hair on their heads—a sure symptom of the decline of youth and the approach of physical infirmities (525). A king is overwhelmed with grief at the death of his affectionate wife (207). The body is laid in a coffin, embalmed with oil and ointment and the bereaved king lies beneath the bed weeping and mourning without taking any food. This picture is somewhat unique as in the Jātaka literature no other kings love their wives so dearly and so single-mindedly. A courtesan named Sāmā, who has 500 female slaves as her attendants, is the favourite of a king of Benares (318). This woman is also visited by a young merchant of the city. A king is so inordinately fond of money that he takes bribes even from ascetics (213). Another worshipper of Mammon is a king of Benares, who is spoken of ‘as given over to the desire of riches and the lust of the flesh, and greedy of gain’ (228). A king of the Śivis secretly falls in love with the wife of the Commander-in-chief, and so deep is the infatuation that there is every likelihood that he will die if he does not get her. The general urges upon the king to accept her as a gift, to be restored to him after he has fully enjoyed the pleasures of her company. The injustice of this proposal dawns upon the king’s consciousness, he sternly refuses the offer, uprooting the unholy desire from his mind (527). A king adopts heretical views (*micchāgahanam gahetva*) as a protest against the conduct of an ascetic and drives away the whole community of mendicants from Benares, so that in the city there is to be found not a single ‘Buddhist or

Brāhmin ascetic' (eko pi dhammika samana brāhmano ahosi—391). A prince named Sotthisena is stricken with leprosy, physicians cannot cure it, but his chaste wife by the performance of 'an act of truth' cures him of this foul disease (519, App.). A minister is very talkative, the king is anxious to make him sober in speech (107). Above all things, kings should be fearless and courageous. But when one dreams a bad dream or hears any unnatural sound, or perceives any ominous phenomena, one is completely unnerved and invites astrologers to explain them fully (314, 418, etc.). A king orders for the wholesale destruction of dogs in the city (No. 22). One king is endowed with the power of understanding animals' cries (416). Anything special or novel is bound to attract the attention of the world. A king, therefore, wants to build a palace, supported by one column, thinking that other monarchs, who are accustomed to live in palaces supported by many columns, will regard this as a unique achievement of art and thus he will easily come to be reckoned as the chiefest king in the whole of India (405). One king is defeated in a battle on account of his partiality to newcomers. He is curious to have some illustrations from the treasure-house of past history. "Am I the only king who has ever been defeated through favour shown to newcomers, or have others had the same fate before?" (413).

We next proceed to give a summary of the information contained in the Buddhist birth-stories, as regards the palace, the court, and the dress of kings. There is no doubt that most of these descriptions are characterised by much exaggeration, due to poetic fancy, but we are sure that there is an element of truth in them. It must be remembered that exaggerations of the type which we constantly meet with in other branches of our literature, are almost wanting in the Jātakas. On a study of the materials which will now be presented to our readers, one is sure to be greatly impressed

The palace, the court  
and the dress of  
kings.

by the splendour and magnificence of the court-life as revealed in some of these stories. Princes were used to take delight in their refined tastes and aesthetic sense, supported by the rich and supple imagination of the people. Descriptions of the court which frequently occur in the Jātakas are interesting from the political stand-point also. The Amātyas (ministers), Brāhmins, Gahapatis (house-holders) and others and nobles of the Kshatriya caste (khattiya kumārā) are the constant factors of the king's court (amaccā ca brāhmaṇagahapatikādayo khattiya-kumārā ca). It remains to be seen if these members of the different communities had any representative character, with respective duties and functions assigned to them. A king's court is described in Jat. No. 132, in the following high-flown language, which, however, does not seem to draw an exaggerated picture: "Tada pana Bodhisatto nagaram pavisitva rājabhavane pāsāde mahatāle samussāpitasetacchat-taṃ ratnavarapallamaṃ āruyha devarājatilhāya nisidi, amaccā ca brāhmaṇagahapatikādayo khattiyakumārā<sup>1</sup> ca sabbālaṃkārapatimaṇḍita parivāretva aṭṭhaṃsu, devacchara-patibhāgā solasasahasā nātakitthiyo naccagītavāditakusalā ut tamavilāsasampannā nacca-gītavāditāni payojesum, gītavāditasaddena rājabhavanam meghatthamtapur ito mahāsamudda-kucchi viya ekanihnādam ahosi" (p. 470, Vol. I). Chalmers translates the passage in the following manner:—"Entering the city, the Bodhisattva passed into the spacious hall of the palace and there seated himself in all his godlike beauty on his jewelled throne beneath the white umbrella of his kingship. Round him in glittering splendour stood his ministers and Brahmins and nobles, whilst sixteen thousand nautch girls, fair as the nymphs of heaven, sang and danced and made music, till the palace was loud with sounds like the ocean when the storm bursts in thunder on its water" (p. 289, No. 132, Vol. I). Palaces of kings in the Jambudvīpa are

<sup>1</sup> Minister, Brāhmins, gahapatis and others, and Kshatriya princes.



described as seven-storeyed and supported by many columns (bahuhi thambhehi pāsādakaranam, 465 : Sattabhumiko pasado, 489). Vissakamma is appointed to build a splendid seven-storeyed mansion, 'half a league in length and breadth and five and 20 leagues in height, all with stones of price' (489). One king has a palace supported by a single column only. Another king wants to have a palace built according to this plan (ekatthambhakasa mangalapāsādasā). Pillars are made of wood (121), and carpenters (vaddhaki) are appointed to build them. The palace has always a courtyard attached to it where people of all descriptions gather on various occasions, either to witness some interesting performance or to address a complaint to the king. Through a window on the terrace of the palace the king often surveys the varied activities of the city and is attracted by the sight of many an interesting object. Golden towers, adorned with wreaths of scented flowers, where a king oftentimes repairs, 'girt with many a lady fair (parikinno itthāgārehi)', 'the gabled-hall, wreathed with flowers and wrought of gold' (kūtāgāraṃ) is alluded to (525), where the king often stays in the company of his kinsfolk (ñātisaṃghena parikiṇṇo), his garden bright with flowers through all the season-changing hours and the royal lakes overspread with lotus blue, haunt of wild birds ; his pātalivana, āmravana, kanikāravana, etc., eternally delightful, are referred to in Jat. No. 525. Courts resound with the cries of peacocks and herons and the melodious music of cuckoos (531). In a verse attributed to the Master, kings are described as arrayed in robes of the finest silk (kāśikavatthadhārino), 'with sandal oil bedewed' (532, p. 323, Vol. V). In the Great Hall of the palace (mahātala) where the king sits on his magnificent throne, he is surrounded by bands of minstrels, mimedancers, male and female (gandhabbanatanaccakādiporivuto—529, p. 249). A seven-storeyed palace is mentioned, on the terrace of which is a beautiful, well-decorated chamber where a princess sleeps at

night (sattabhūmakapāsāḍavaratale alamkata-sirigabbhe—458). The description of a king's court on the occasion of a festival runs as follows :—"the crowd of the king's ministers sat on one side, on another a host of Brāhmins, on another the wealthy merchants and the like, on another the most beautiful dancing girls ; Brahmin panegyrists skilled in festive songs, sang their cheerful odes with loud voices, hundreds of musical instruments were played, the king's palace was filled with one vast sound as if it were in the centre of the yugandhara ocean" (amāccamandalam—the circle of ministers,—Brāhma-nagaṇa, Setthiādayo, Brāhmaṇasoṭṭhikārā—p. 43). A distinction has been made in the Kummāsapinda Jātaka (415) between these Brāhmins and householders on the one hand and men of the city on the other, probably indicating that the former comprised a group by themselves distinctly separate from the latter (nagaramanusse) as regards status. One king invites all the smiths (kammāra) of his realm to build an iron house (ayogharam), furnished with rooms and pillars and made of the same metal, which is finished within nine months (510).

Our attention may be next drawn to the material, supplied by the Jātakas, which may be considered quite sufficient for forming a correct estimate of the scope and opportunities of social intercourse between the king and the different grades of the people in ancient India. One dominant feature of this relation, which we can never lose sight of, is the extreme frankness and intimacy, marking the social dealings of kings, based on a clear and unshaken recognition of the worth, importance and dignity of the people. Men of varied castes and classes often meet together at the invitation of their king, jostling with one another in a vast crowd of spectators, where aristocratic distinctions count for nothing, the king with all his people participating in a grand feast of common enjoyments, moved by common sensations of delight and admiration,—everything in short wearing an unmistakably democratic

Amusements, etc.;  
their social and cul-  
tural value.

appearance. If the performance given is not up to the mark, the expression of their condemnation is as emphatic and unanimous as their admiration when the reverse is the case. The king does not enjoy a good treat alone like a selfish man but he takes the whole people with him. This is due not only to the fact of the king's instinct of social life being unsubdued by the environments of comparative exclusiveness in which he lives, moves and has his being, but, equally or to a greater extent, to the binding opinion of the age, according to which nothing of importance can be accepted or rejected without the ultimate sanction of the people themselves. The patronage of the king is not simply a private interest of matter, it has a great public significance. Rich establishments of dancers, musicians, minstrels, actors and actresses, managed and patronised by the state, are not meant always for catering for the tastes and amusement of the king, the harem and the ministers alone, but they draw their inspiration from the loud and confused voice of popular acclamations, thunderous clappings and the throwing away of kerchiefs and purses by an assembly mad with joy. Such public demonstrations of physical feats and cultural attainments undoubtedly tended to the elimination of certain uncouth differences in the mental outlooks of the various orders of men in our country, suggesting some points of kinship with the national games and festivals of ancient Hellas. We can by no means depreciate their contributions towards the evolution of some distinctive cultural institutions and the growth of popular literary traditions and ideals in our country. Kings stand out in these legends as great patrons of arts and letters. Most of them get their education in the university town of Taxila. Travels and journeys give them much practical experience about the world, a direct knowledge of the glories and achievements of other countries. When they take the reins of the government into their own hands, the more

enterprising of them cannot but utilise every opportunity for the promotion of culture and efficiency, the cultivation of refined tastes and ideas amongst their own people in the light of what they have seen abroad. Thus Poetry and Arts develop under their patronage. Any Brahmin who can compose a few verses is sure to be properly rewarded by the king. Sometimes the king himself will try his hand at a verse, so beautiful and appealing, that within a short time the whole people will take it up and commit it to memory. It seems that the nation is not prepared to lose anything that may be valuable in however small a measure in developing its intellectual capacities. Kings are born and bred up in an atmosphere of poetry, music and dance. We refer only to the great festivities that are held at the time of their birth, installation and marriage. When a king goes to his park for enjoying a little leisure, he is to be accompanied by dancers and musicians to keep up his spirits and to lead him on to the dizzy heights of ecstasy. We shall give below some typical examples with a view to substantiate what we have said above. A great musical competition is to be held between two men, Musila of Ujjain and Guttala of Benares at the door of the royal palace of Benares. (243.) "At the palace door a pavilion (mandapa, rangamandala) was set up and a throne was set apart for the king. He came down from the palace and took his seat upon the divan in the gay pavilion. All round him were thousands of slaves, women beauteously apparelled, courtiers, Brahmins, citizens (amaccabrahmanarat-thikādayo ca). All the people of the town had come together. In the courtyard (Rājañgane) they were fixing the seats circle on circle, tier above tier (cakkāticakke mañcātimañce bandhiṃsu).....All around was a great concourse of people (Mahājano parivāresi)." "And when one of the musicians has shown a great triumph over the other, the multitude in thousands waved and waved their kerchiefs in the air, in

thousands they shouted applause." The king does not stand away from the audience in a spirit of isolation, his is perhaps the principal note in the chorus of condemnation that is started against the vanquished. He makes a sign to the multitude and "with stones and staves and anything that came to hand, they beat and bruise him to death, and seizing him by the feet, they cast him upon a dust heap." The sequel will not appear strange if we remember the fate of many a scholar, defeated in intellectual contests in the glorious age of the Upanishads. An assembly gathers at the invitation of the king to witness a very interesting competition of archers. The palace-yard is made ready to accommodate a vast crowd and the king takes his seat on the throne with men surrounding him on all sides. Jotipala, the hero of many an intricate feat of archery, is acclaimed with unbounded enthusiasm and wild excitement. The people make a great uproar, shouting and dancing about and clapping their hands and they throw off their garments and ornaments, so that there is treasure lying in a heap to the amount of 18 crores. (522.) Sometimes a king may by beat of drum proclaim his intention to address the citizens on some great topic of moral uplift and regeneration, thus affording himself and the people a direct opportunity for an intimate association and mutual understanding that may alone lead to the realisation of the highest purpose of government. The king declares that it is his determination to show the path of righteousness to the townfolk. "Ambho nagaravāsino, tumhākam.....dhamme desassami." The whole city assembles as it were at his courtyard, where the pavilion, erected for the purpose, is overcrowded with spectators of both the sexes, including the ladies of the harem. The king from his throne delivers his sermon, emphasising the necessity of almsgiving, of showing respects to Brahmins and Śramaṇas, parents and āchāryas, of avoiding injury to animal life,—instinct with a sincere spirit of remorse for all the bad and wicked things that he did in the past,—for

the violation of the moral principles, now taught with so much strength of conviction and depth of earnestness, of which he himself was guilty for a long period of his life. The reader is only to remember certain parallel passages<sup>1</sup> from the edicts of Asoka and he will have no difficulty with the help of the known facts of history in appreciating the genuineness of these noble feelings and also the significance of the Dharma propaganda, set on foot by the Jātaka prototype of the great Maurya Emperor,—based on a direct appeal to the masses. There is no doubt that kings in ancient India made notable contributions towards shaping the moral and intellectual history of our race either by themselves playing the rôle of a teacher or by associating themselves with culture-institutions of great potentialities, such as drama and music in special.

A king in order to attract his son to the pleasures of the world proposes to have dramas enacted before him (*nāṭa-kāni'ssa paccupaṭṭhāpetvā vīmaṇsissamā*, p. 9, Vol. VI). The prince is brought into a beautiful chamber of the palace (*antagabbhaṃ sirigabbhesu*), which is filled with the fragrance of spirituous liquor and other things (*gaṇḍhadāma-pupphadāmadhupavāsamadirāsavādihi*). The dwelling place of a man is called as beautiful as a king's chamber, the floor of which is sprinkled with different kinds of perfumes, the walls, hung with wreaths of flowers and garlands, and the roof, decorated with a spreading cloth, interspersed with golden stars. (255.)

The games and amusements in which the kings indulge are hunting, dice-play and those that are available in the seclusion of the royal park. When kings go out a-hunting, it occasions the

Sports and amusements of the king.

<sup>1</sup> Compare for instance, 'matari pitari sādhu susrusū'...'<sup>1</sup> bāmbaṇasamaṇānāṃ sādhu dānaṃ prāṇānāṃ anāraṇbho sādhu.' (Rock Edict XI.) That the predecessors of Asoka had undertaken measures for the moral edification of the people is proved by his own admission—"atikaṇḍhām-acha aṇṭalaṃ hetvaṃ icchisu lājane kathaṃ-jane anupāyā dhammavaḍḍhiyā-ti" (Pillar Edict VII).

need of some joint action on the part of the subjects to prevent the great inconvenience that is otherwise sure to be caused to their normal occupations by the wild activities attending such expeditions. In well-organised communities it is not at all difficult to devise measures that are calculated to remove a general grievance of this sort. "In those days the king of Benares," so runs the story, "was passionately fond of hunting.....Every day he mustered the whole of his subjects, townsfolk and countryfolk alike, to the detriment of their business, and went a-hunting." His people sustained immense losses and were determined not to tolerate this state of things any longer. So they met together and deliberated as to the remedy they should adopt. The townsfolk co-operated with the village-people and the result manifested itself in the speedy relief they were able to bring to themselves without any clash with their sovereign. Plans and manœuvres, adopted on a wide scale by the people to get themselves rid of the unavoidable evils, due to the hunting excursions of their monarchs, are referred to in many of the Jātakas. (385 etc.) Cruel laws must have been in force, restricting the free movements of people throughout the area where hunting operations were carried on. One king going with a great retinue to a forest, a league or two in extent, is said to have proclaimed that if a deer happened to escape 'by any man's post, that man was to be fined the value of the deer.' (398.)

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## SECTION II.

### *Some points of administrative history.*

It may be said without any fear of contradiction that the material furnished by the Jātakas in regard to the administrative history of the period represented by them, though meagre in quantity, is yet none the less valuable for its intrinsic worth. It is not the avowed object of the Jātakas to give a connected and systematic history of any aspect of the national life of ancient India. Like the Arthaśāstra or any other treatise on Polity they do not aim at presenting a comprehensive picture of the political and administrative machinery with all its intricacies, either in actual existence, or theoretically regarded as representing the best and the most efficient system at a certain period of our history. There is thus an entire lack of theories and postulates, manipulations or clever dogmatisings in the literature we have taken up for our study. But it gives us details, here and there, quite in an offhand manner, the object generally being to draw a portrait of what the real state of things was. It should, however, be pointed out that we cannot have even a fairly satisfactory picture of administration, in this period with the help of these facts alone. We must have to ransack the whole literature for that purpose and it is well known that notable attempts have been already made in this direction by various scholars. It is necessary that we should take this opportunity of explaining as briefly as possible the peculiar character of the information, supplied by the Jātakas, referred to above. It was not possible for the simple folk of India for whom these stories must have been meant in particular,

Materials scanty but valuable, the peculiar features of the Jāta-ka stories.



to have concerned themselves with the bigger problems or theories of administration. Neither could they be expected to have sufficient time, opportunities and training so that they might familiarise themselves with all the different departments of the state, the status and functions of the officers by whom they were manned, and in short the whole administrative structure with all the parts composing it, compact and co-ordinated, entrusted to carry on the grand and multifarious business of the state-organisation. They throw light only on such subjects, as concerned themselves most in their daily life, in the pursuit of their normal behaviour and avocations. The information, supplied in this connection, does not seem to be vitiated by any bias, academic or otherwise, but its inadequacy is due to its essentially legendary character. In the following pages an attempt has been made to arrange a few scrappy notes in some systematic form in order that they may produce a deeper impression than they are likely to do, when studied in a casual manner, entangled with facts of other interests.

In the Jātaka period, with the march of civilization, the whole country had come to be endowed with a net-work of villages and towns. Forests were still to be seen, but the area covered by them was comparatively small. Even robbers who are proverbially known to prefer jungles to well-organised villages or towns for their habitation, are mentioned in some cases to have their own villages, where they resided in a large body. Thus the necessity of clearing away forests and founding villages or towns was keenly felt even by the dregs of society. New villages and cities also continued to be founded under the direct patronage of kings. Great economic factors of an advanced stage of material civilization, must have accounted for the depopulation of many villages and cities, which is sometimes referred to in the literature under review.

*Villages.*

Different orders of villages are mentioned, *viz.*, nigama-gāmo, gāmo, gāmako, paccantagāma, varying in importance and population. A nigama might mean both a town and a village, if the latter was a city in miniature with at least some of its busy elements of life present in it. Thus we fully agree that "there was not, ..., any such hard and fast line between gāma and nigama to warrant the exclusion, in this description, of some gāmas which may have amounted to nigamas" (Cambridge History of Ancient India, p. 200). In the Jātaka No. 137, we find reference to a nigama, where lived a very well-to-do merchant (*eko mahavibhavo setthi ahoṣi*). That this term did not mean a town in this case is clearly evidenced from the fact that the same nigama is alluded to as a village elsewhere in the story (so *gāmopi chaddito apanṇabhi*, etc.). An attempt is made to keep the sense of an active village distinct from that of a town by the use of the expression 'nigamagāmo,' which apparently means a village, *astir* with the bustle of a market-town. "Translations have used market occasionally, but perhaps with scarcely sufficient warrant, *e. g.*, market town for *nigamagāma*" (Mrs. Rhys Davids' article in J. R. A. S., 1901). A village is generally called gāmo, gāmaka means a small village, more appropriately a hamlet. The population of a village extended from thirty to a thousand families, (Jātaka 31, *tesāṃ gāmato avidure añño sahaṣṣakuṭiko* ; 317, *te ca tiṃsa kulamanussā* ; 402, *taṭṭha tiṃsajanā rājasevakā vasanti*). The latter cannot mean that the population consisted of 30 men only, but of thirty men with their families. Similarly in the above (387) all that we are told is that the village in question comprised one thousand houses with one thousand masters. The population in such cases probably did not exceed 5,000. Another village is said to have consisted

fo 500 families, Pañca kulasatāni Vasanti. (540.) Pac-cantagāmas were the villages on the borders of a kingdom (*e. g.*, 79, 302). In view of the insecure condition of the borders, resulting from organised depredations of robbers and marauders, these paccantagāmas, where it was difficult to distinguish between a rebel and a loyalist (Rājpuriso and coropuriso, 302), could not reasonably flourish as much as the villages which were nearer to the heart of a kingdom or which enjoyed the privileges of a close proximity to towns and cities (*cf.* Vahinagare vaḍḍhakigāmo—475 ; nagarato pubbut-arayadisaye...gāmo, etc.). A villager is called grāmovāsi or janapadavasi (529), as opposed to nagaravāsi, a citizen. Amongst the resources of the kingdom of Benares mention is made of the fact that it contained 60,000 villages (529 seṭṭhi gāmasahassāni paripuṇṇāni). The kingdom of Mithila could boast of 16,000 villages (gāmasahassāni paripuṇṇāni solasa... 406). People could live prosperously and in an organised manner in their rural abodes, pursuing trade and commerce and agriculture and various other avocations in peace and security, and it is no wonder that they should come to hold such an important place as we find ascribed to them. The figures given above may seem to be exaggerated, but our attention should be drawn to the gāmaṇi-caṇḍa Jātaka, where it is said that a certain village was situated at a distance of three yojanas from the capital town, starting from which some people are described as passing through a succession of intermediate villages on their way to the king's court. (257.) "Certain trades were localised in special villages, either suburban and ancillary to the large cities or themselves forming centres of traffic with surrounding villages." (J. R. A. S., 1901.) Thus we find that there were villages of Brahmins (389, 414), carpenters, smiths, peasants, hunters, weavers, robbers, Caṇḍālas (472, 477, 498, 156, etc.). In this connection we may be permitted to point out that some of the guilds had their membership thrown open to men of

different castes. For instance, in a village of carpenters there lived a Brahmin carpenter (*brāhmaṇavaddhaki*, 475). In another village there was a Brahmin who followed the occupation of a peasant (484). Of course we know that Brahmins used to follow multifarious professions in those days, as shown in the Jātaka No. 495.<sup>1</sup> It is easy to understand how these villages, occupied exclusively by different guilds, each under the leadership of a *jeṭṭha* (elder, alderman) could serve as so many useful and healthy administrative units, free from that unholy spirit of competition, which often mars the steady and harmonious progress of society, favouring the growth of one or more classes at the cost of all others and helping to bring the state under a predominant bias to the total or partial negation of the interests of the society as a whole. Absence of complexities and class-hatred is the conspicuous feature of the Jātaka society, which guaranteed the smooth working of the political institutions of the age. We may note the following details in regard to the interrelation between the villages and the central government. It seems that there were two kinds of villages, according as the revenues yielded by them were enjoyed by an individual or by the state. It must be pointed out that Dr. Fick takes '*gāmabhojaka*,' a term which we shall presently explain, as meaning an official appointed to collect the revenue of a village for the king. But we beg to differ from him. He relies upon a solitary passage in the introductory episode of a Jātaka story (No. 79, 1.3.14) where it is said that a *gāmabhojaka* was once collecting the taxes for a king (*rājabalim labhitva*). But it should not be overlooked that there is a distinct line of demarcation between the introductory episodes and the *atitavatṭhu* portions of Jātakas on chronological grounds; we do not find anything in the more ancient legends which goes to support the theory put forward by Dr. Fick. It may be that the *amacca* in No. 74 was engaged in collecting revenue, that was once due to the king, but now

<sup>1</sup> Cf. *Manu* (III. 151 sq.).

enjoyed by the minister and that it was levied at the old rate. It is not a fit place to enter into a long controversy over this point in the absence of sufficient materials.

A village offered to anybody used to be styled as *gāmavaram*, the person who enjoyed the income therefrom was known as *gāmabhojaka* and the village was designated as *bhogagāma* (*e.g.*, 332). It is necessary to remember that those villages which king's officers visited for the purpose of collecting revenue, etc., are not termed as *bhogagāmas* mentioned above. Revenue thus collected was entirely absorbed by the treasury of the state, and it may be that people who got grants of villages were under the necessity of contributing certain portions of their incomes to the government. Courtiers were very generally the recipients of these gifts. These officers are often mentioned as proceeding to their respective *bhogagāmas* in chariots (332, 509, etc.). The revenue amounted to one thousand, or hundreds of thousands of money (*satasahassuṭṭhānaṃ*, 9, 533). Excepting ministers, outsiders also, belonging to different castes and professions, were not infrequently rewarded with grants of villages in recognition of personal services rendered to a king or of meritorious achievements in any field of life. Already the practice of granting villages to Brahmins in consideration of their piety and learning, had become popular. The *gāmabhojakas* were in the enjoyment of large though not unlimited powers. One *gāmabhojaka* prohibited the slaughter of animals within his jurisdiction (*maghalaṃ karapesi*), and another proscribed the sale of wine (*majjavikkayaṃ varetva*). The villages in both the cases had to appeal in a body to these local lords in order to secure a suspension of the interdicts and the restoration of the time-honoured custom (*balikammakāle mahājāṇo sannipatitvā āha: "sāmi mayaṃ migasūkarādayo māretvā yakkhānaṃ balikammaṃ karissāma"*). The answer was "*tumhākaṃ pubbekaraṇaniyamen'eva karoṭhā, etc.*" (p. 115, Vol. IV.) The *gāmabhojaka* was entitled to a part of the

price of intoxicating drinks sold in his village and also to the dues and fines paid by criminals so far as his jurisdiction extended. Thus a village lord thinks “*ahaṃ pubbe etesu suraṃ pivantesu pāṇātipātādīni karontesu cātīkahāha-panādivasena c’eva daṇḍabalivasena ca dhanam labhāmi*”—31, p. 199, Vol. I. Another headman fined a fisherwoman and she was tied up and beaten to make her pay the fine—No. 139. But the restricted character of his judicial powers is evident from the fact that he could not inflict graver punishments or deal with complicated lawsuits arising in the village allotted to him (31). When he was not satisfied with the conduct of a number of villagers, law did not permit him to punish them according to his own will. He went to the king and having got his orders for their immediate arrest, brought them to the court. It was the king who sentenced them to death on his own authority. The *Gāmaṇi-caṇḍa Jātaka* (257) conclusively shows that the administration of justice was a matter in which final authority entirely rested outside the villages—with the king or his court. We are not told whether the villages, mentioned in this story, belonged to the class of *bhogagāmas*, but the combined evidence of *Jāts*. Nos. 31 and 257, leaves no doubt that administration of justice was one of the essential links that bound the scattered villages to the central organisation of the state. In the *Gāmaṇi-caṇḍa Jātaka* there is a passage which implies that there might be suitable arrangements for trying cases in a village, but if one of the litigant parties wanted redress at the hands of the king’s court, the case had to be decided by that body. If the other party refused to agree to such a course, he was liable to punishment. (*Tesu pi janesu yaṃ kiñci sakkharam vā kapāla-khaṇḍam vā ukkhipitvā*, “*ayaṃ te rājadūto, ehīti, ‘vutte yo na gacchati tassa rājānam karonti’*” p. 301, Vol. II...) “Now this people have a custom that they pick up a bit of stone or a potsherd and say, “Here is the king’s officer; come along !...” If any man refuses to go, he is punished (p. 209).

From all that has been said above it is clear that so far as the internal administration of a village, the regulation of its trade and commerce and so forth, was concerned, the *gāmabhojaka* had substantial powers and that the central government did hardly interfere in these matters. But it will be a mistake to suppose in the face of the evidence, already adduced, that the authority of the local chief was of an unlimited character. The system in vogue did not allow him to become an absolute tyrant in his own village. The village-committee must have come to be regarded as a highly useful institution inasmuch as it offered valuable co-operation to the authorities in regard to matters affecting the common interests of the villagers in general, although it is not possible to say anything definitely regarding the constitution of such committees. The guild was already a potent force in the economic and social life of the people. These guilds with their elders at the head probably shared with the chiefs or *gāmabhojakas*, appointed by the king, the responsibility of carrying on the management of rural affairs. If the population of a village was not homogeneous, that is to say, if it consisted of men belonging to more than one profession, the village committee might have comprised a representative of each family dwelling in it. Thus in the hamlet of Macala in the kingdom of Magadha, heads of thirty families, of which its population was composed, are found assembled together and discharging the business of the village. (*Tasmim ca gāme tiṃs'eva kulāni honti, te ca tiṃsa kulamanussā ekadivasam gāmamajjhe ihatvā gāmakammaṃ karonti*, p. 199, Vol. I.) Thirty again is the number of men transacting the affairs of a village in *Jāt.* o. 302. (“*Tattha tiṃsa jana rājasevakā vasanti, te pāto va gāmamejjhe sannipatitva gāmakiccam karonti*,” p. 8, Vol. III.) It may not also be improbable that irrespective of the total population of a village, the committee usually consisted of thirty members or thereabouts. The meetings of the village committee were held within the village in a hall (*sālāṃ*), provided with boards,

seats and a jar of water (phalakāsanāni...pāniyacātim, p. 199 ; Chalmers' translation of this passage cannot for obvious reasons be accepted as correct). On the nature of the work generally performed by such assemblies, gāmakamma or gāmakicca as it used to be called, much welcome light is thrown by the Jāt. No. 31. The members were as in most cases in complete agreement with the leader, who was credited with much initiative and was ordinarily a talented man (timsa janā Bodhisattena samānacchandā ahesuṃ). One such leader established the members of his committee in the Five Commandments, "and thenceforth used to go about with them doing good works. And they too doing good works always in the Bodhisattva's company, used to get up early and sally forth with razors and axes and clubs in their hands. With their clubs they used to roll out in the way all stones that lay on the four highways and other roads of the village : the trees that did strike against axles of chariots, they cut down ; rough places they made smooth ; causeways they built, dug water tanks, and built a hall," pp. 78-79, Vol. I. (Te pi ten'eva saddhim puññāni karonto kālāss' eva vuṭṭhāya vāsipharasumusalahatthā catumahāpathādisu musalena pāsāṇe ubbattetvā pavatṭenti, yānānaṃ akkhapaṭi-gḥātarukkhe haranti, visamaṃ samaṃ karonti, setuṃ attharanti, pokkharāṇiyo khaṇanti, sālam karonti, etc., p. 199.) Thus this corporate body were engaged in doing things, which remind us of the duties entrusted to the "*thirty members*" of a municipal town in the time of Chandra-gupta the Maurya, in their collective capacity. Most of these works are now-a-days generally undertaken by the District Boards of British India. The noteworthy features of this very interesting picture are firstly, the qualities and virtues of a true leader which it discloses, and secondly, the admirable sense of dignity of labour, genuine public spirit and practical appreciation of the value of co-operative principles actuating the corporate activities of the villages, which it so



strikingly reveals. Indian civilization owes not a small debt to these sturdy realists, who built up the thousand smiling villages, once the most sparkling diamond on the crown of India, and which alas ! are fast decaying on account of many forces which had better not be discussed here. Even to-day we cannot give to our country a wider plan of village reconstruction, which is to include, excavation of tanks, repair of old ones, keeping the roads in good order, clearing up jungles and forests, erection of public halls for divine service or for the dissemination of noble ideas amongst the rural folk. There is nothing to indicate that the workers of the Macala village depended upon state funds for carrying on their humanitarian activities. In this connection the following observation by Dr. Radhakumud Mukherjee may be found interesting :—

“ We have here...a most graphic and complete account of the evolution through all its stages of a village built up by *the communal labour* of its inhabitants. We may notice how the assembly hall of the village figures prominently in its public works as being the indispensable material requisite for the growth and sustenance of that *larger public spirit* or civic consciousness, which builds up the village itself.” (Local Government in Ancient India, 2nd Edn., p. 146.)

Villages in those days were not despised by aristocrats, landowners and merchants (kāsiraṭṭhe ekasmiṃ nigame (‘nigama’ here meaning a village) eko mahāvibhavo seṭṭhi ahoṣi (137); kāsīgāme kuṭumbiko (459), kutumbika in another village, 19; gāmake kutumbikakule nibbattitvā, 368, etc.). It is to be noted that these influential men were not mere absentee lords. To be a gāmaṇī (village-chief) surrounded by a host of attendants and amused by dance and song was thought to be an enviable position. (Gāmaṇī hotu saḥāyamajjhe naccehi gitehi pamodamāno, 488).<sup>1</sup>

The policy of the village-committee might not always agree with the interests of the gāmabhojaka. For example,

<sup>1</sup> See Verse, p. 310, Vol. IV.

reference may again be made to the Jāt. No. 31, where the members having by common consent given up the habit of drinking wine, incurred the displeasure of the village chief, who used to get much money out of the sale of intoxicating liquors and who practically traded on the immorality of his own people.

An unhealthy policy adopted by the government was not slow to produce baneful effects upon the conditions of rural life. Thus some villages are reported to have been destroyed as a consequence of gross misrule and heavy taxation. Villagers are described as fleeing to the woods for the protection of their lives, when everything they had possessed, were taken away either by king's officers or robbers. Villagers, though living far away from their king and, hence, not on so intimate terms with the central government as the citizens were specially privileged to be, yet had their own opinions about the merits and drawbacks of their rulers whose conduct must have often been a subject of keen criticism and discussion among them. Kings were sometimes in the habit of ascertaining incognito the views of villagers in order to improve their character and conduct in the light of these public criticisms. A modern parallel of this practice is afforded by ex-King Amanullah Khan of Afghanistan. "He himself sometimes goes out *in disguise* like the Khalifs of old to see the condition of his subjects with his own eyes and to hear the criticism of his government with his own ears" ("Forward," Anniversary number, 1925, 26th October, p. 19).

We do not see any ground for holding that judicial powers formed part of the affairs of the village-committee. Nor is there any indication to show that the gāmahhojaka was elected by the villagers themselves. Life-grants of villages are referred to in 289. The central government did not follow a strictly non-interfering policy in regard to the internal affairs of a bhogagāma, if these required their urgent attention. There are references to shew that kings took immediate

steps against ministers who grossly abused their powers in the administration of villages, entrusted to their care (79, etc.).

*King—his qualities, diplomacy, etc.*

The fundamental principle of administration, to which the king was bound to adhere, was that *right* should never be violated. "If Right is destroyed, it destroys." Dhammo nām'esa hato hanati (422). Dhamma might be taken to mean with sufficient justification the whole bundle of laws that formed the basis of social and political order. If any such usage or custom was outraged, its effect would be disastrous to the party committing the offence. The whole political or administrative structure stood on the support yielded by the recognition of these laws or rights, and the king, more than anybody else, was responsible for their maintenance. In the Jāt. No. 422 which seems to represent some ancient historical fact, a king brought about his own destruction by conferring a right which had been enjoyed by a particular line of priests upon another person in violation of the established practice. Thus we see that the king was under the obligation of strictly fulfilling in practice the age-long rights of others and in this respect his powers were much limited, he being not allowed to make any innovation, according as it suited his caprice, which would go against Dhamma, on which the whole fabric of the state stood. Learning the real meaning of Dhamma from this Jātaka story, we are in a position to appreciate the true significance of the qualities demanded of a sovereign in Jāt. No. 527. A king is here taught to have a strict regard for the rights belonging to the different communities and sections of the people. The king's life consisted of a long chain of duties, duties to his relations, subjects and friends—the different communities of the society, the officials and the various departments of the state. And what were these duties? They were apparently not mere abstract

principles of righteousness, but mostly consisted in the fulfilment and maintenance of the positive rights belonging to them. “Dhammañ cara mahārāja mātāpitusu khattiya, idha dhammañ caritvāna rāja saggañ gamissasi. Dhammañ cara mahārāja mittāmaccesu khattiya . . . Dhammañ cara maharaja vāhanesu balesu ca Dhammañ cara mahārāja gāmesu nigamesu ca ; Dhammañ cara mahārāja ratthe janapadesu ca . . . Dhammañ cara mahārāja samane brāhmaṇesu, etc. Ummadanti Jātaka, 527, p. 223, Vol. V). Indirectly the above verse points to the fact that amongst others the gāmas and nigamas, rāshtras and janapadas had their own laws, which were binding upon the king.

Another wholesome teaching is that a king should eschew all evil ways, the ways of a fool.—“Kummaggañ na nivesayya yathā mulho acetaso” (515, p. 66, Vol. V) and that whatever is right should be pursued by him “Dhammena no adhammena, kicco va dhammo carito rañño hoti (pp. 57, 515, Vol. V).

A king should not make enemies in his own kingdom. He must be on terms of amity and friendship with all, so that with their co-operation he might make his position strong and secure. Again, he should not violate right and above all be a man of vigour and action. He must not take advantage of his position and mislead his people to their cost. (So “tvam” sabbesaṃ suhadayo sabbesaṃ rakkhito bhava, p. 113. So appamatto akkuṭṭho tāta kiccāni kāraye, vāyamassu ca kiccesu, nālaso vindate sukhaṃ, p. 113: Mā tāta issaro’ mhitī anattāya patārayi, itthīnaṃ purisānaṃ ca mā te āsi dukhudrayo, p. 117, Vol. V.) Slothfulness on the part of a king was regarded as a great vice and it was an absolute necessity that he should shake it off if he really meant to rule, otherwise the kingdom would pass to other hands (iddhaṃ phitaṃ janapadaṃ corā viddhaṃsayanti taṃ ; khattiyassa pamattassa ratthasmiṃ ratthavaddhana, sabbe bhogā vinassanti, rañño taṃ vuccate aghaṃ, p. 100, Vol. V, 520). According to the Jātaka ideal,

the king should be unsparing in his labours, active, industrious and enterprising (*cf.* the VIth Rock Edict of Asoka).

The king was also to mould his policy according to the opinion of his subjects, broadly distinguished as belonging to *raṭṭha* and *janapada*. He must see things with his own eyes and have regard for well-meaning suggestions of others. *Upassutiṃ mahārāja raṭṭhe janapade cara, tattha disvā ca sutvā ca tato taṃ paṭipajjasīti* (p. 100, Vol. V, 520). "Great king, ever open thine ears, and list to what people may say, that seeing and hearing the truth, thou mayst win to good fortune thy way" (Vol. V, p. 55).

The ten royal virtues, *Dasarājadhamma*, are frequently referred to but we must remember that they do not give us a true picture of the king, "no idea of the essence of kingly power, of the obligations or functions of the *rājan*, because they.....contain universal prescriptions of moral applicable to the whole Buddhistic laity." A king could please his subjects with the help of the four elements of popularity (*catuhi saṃgaha-vatthuhi janam saṃganhanto*—p. 424). Of all the five elements that constituted the strength of a king, the power derived from wisdom was considered to be the best and it was emphasised that he should put the greatest reliance on it. The five-fold strength consisted of *bāhubalam* (power of limb), *bhogabalam* (power of possession, government, etc.), *amāccabalam* (power of counsel), *adhijaccabalam* (power of high birth, aristocratic privileges), and *paññābalam* (power of intellect). *Taṃ balānaṃ balaṃ seṭṭhaṃ aggaṃ paññābalaṃ balaṃ, paññābalen' upatthaddho atthaṃ vindati paṇḍito*—p. 121, 521, Vol. V. Sovereign lords and monarchs are compared to snakes, which may stain holy men—*Issarānaṃ adhipatīnaṃ na tesāṃ pādato care, āsiviso so akkhāto brahmacariyassa Nārada*—p. 223, 477, Vol. IV. There is no doubt that this comparison is to some extent well-merited, because who can doubt the similarity that exists between the characteristics of a serpent and the crooked

methods of the art of government, in which, those in power are expected to be past masters? In this world there are four things which can never be satisfied, *viz.*, the ocean, kings, Brahmins and women-kind. Rājā ca paṭhavim sabbam sasamuddam sapabbataṃ, ajjhāvase vijinitvā anantara-tanocitaṃ, pāram samuddam pattheti, ūnattā, hi na pūراتي—(p. 450, 536, Vol. V). “A king by conquest holds the world, its mountains, seas and all, the endless treasures it contains his very own may call, yet sighs for worlds beyond the sea, for this he counts too small”—p. 243, Vol. V. This characterisation seems to reveal to us the normal attitude of an ancient Indian king to his neighbours. It is not at all difficult to perceive why good men aspiring after moral perfection should be taught to avoid the company of kings as serpents. The science of politics must have had its devotees, the *Visāradas* who were never satisfied with the council, just as the sea is not satisfied with all the rivers, or fire with fuel or a king with his overgrowing kingdom.—*Visārado parisāya no tappati, rājā ratthena na tappati*—p. 342, Vol. III.

### *Ministers.*

The number of ministers as given in the *Mahāsilava Jātaka* (51) is one thousand. But it is to be noted that these one thousand ministers who surround the king, seated on his throne, are “the thousand gallant warriors who would face the charge even of a rut elephant, whom the launched thunderbolt of Indra could not terrify,—a matchless band of invincible heroes ready at the king’s command to reduce all India to his sway”—p. 130, Vol. I. (*Sahassamattā adhejjavarasūra-mahāyodhā honti*—p. 363; *amaccasahassena*—p. 264, Vol. I.) The *Seyya Jātaka* (282) mentions five hundred chief warriors (*pañcasattamattā mahāyodhā*, p. 401, II) who are called his *amaccas* or ministers. In the *Cullasutasomajātaka* (525) a king calls to his presence, 80,000 courtiers, headed by the *Senapāti* or Commander-in-chief

and 60,000 Brahmins, led by the purohita or the royal chaplain. (Senāpatimukhāni asīti-amaccasahassāni purohita-mukhāni sātthi-brāhmaṇasahassāni—p. 173, V ; ‘mittāmacce parisaje,’ mentioned in a verse of this story seems to indicate a much bigger body than a committee of advisers.) The king’s army consists of 60,000 warriors (547), who constitute his 60,000 ministers (saṭṭhisahassāni yudhino cārudas-sanā—p. 579) and birthmates of his son at the time of his consecration (sahajātā saṭṭhisahasā amaccā—p. 588). A king wants to have retinue for his son which is constituted by 500 young nobles born in the ministers’ houses on the same day as the prince (mama puttassa parivāra—amaccakulesu jāta-dārakā—p. 2, VI). 500 nurses are appointed to take care of these 500 nobles. Thus the Jātaka evidence persuades us to hold,<sup>1</sup> that the term ‘*amātyakulam*’ was not restricted to the sense of a body of ministers, as now-a-days understood, being in charge of different portfolios, but that it was also applied to mean the whole kith and kin of the kshatriya king, *the entire community of fighters*, whose leader, par excellence, he was, and who were called his counsellors because of their inherent right to offer him advice on very many occasions concerning the state. In some of the cases, as shewn above, the chief warriors only were called ministers, not the rank and file. Besides these men, who appear to have enjoyed some special right to be the counsellors of a king, there were other high officials, who were ministers *ex-officio*, e.g., the treasurer, the valuer, the royal priest, etc. The latter must have constituted a small advisory board including the Commander-in-chief and some other leading Kshatriyas, who were required to give counsel to the king on all occasions when it was out of the question to call an unwieldy assembly like the whole host of ministers in the widest sense of the term.

<sup>1</sup> I do not take the numbers seriously.

Ministers were generally appointed on a hereditary basis, the son succeeding to the post of his father. But exceptions were also known, *e.g.*, a very poor man was appointed by the king as Lord Treasurer (Rājā tassa seṭṭhiṭṭhānaṃ adāsi—No. 109, I, p. 424). Officers who proved inefficient, treacherous or intriguing were dismissed (289, etc.). A dismissed minister would often take service in a neighbouring kingdom and try all sorts of means to bring about the destruction of his former master. Some special rights or perquisites were attached to certain offices. For instance, for seven generations a royal priestly family enjoyed the position of the Master of the Ceremonies in the king's Elephant festivals, which was a source of substantial income. (Haṭṭhimāṅgalakaraṇaṃ nāma yāva sattamā kulaparivaṭṭā ambhakaṃ, p. 97, II). The king used to get much in the shape of presents and gifts from his master that much had been given to him by his family (290) —“Great king, a great deal has been given to you by my family, my father's prosperity, my mother's, and what I have gained myself: there is no end to it,” (p. 293). A treasurer who was master of eighty crores, wanted to make over his whole wealth to the king (535). King Kaṇḍari of Benares, used to be daily presented with a thousand boxes of perfume by his counsellors (536)—(Amaccā gandhakarandaḥṣaṣṣaṃ āharanti, p. 437, Vol. V). A minister could resign his post if he was permitted to do so by the king. It seems quite probable that cases in which a minister happened to be one of the contending parties, were required to be adjudicated upon by the king, holding the trial in consultation with other ministers (331). Administration was not always free from corruption and ministers often keenly competed amongst themselves for power and supremacy in the court, employing any kind of means if it only served their purpose (220). An ascetic made the following observation, which, we do not think, was far from the truth, considering the real state of affairs:—“Verily the king's court is full of hatred and abounds in enemies.”



(528). The ascetic was appointed by the king to decide cases in the Judgment Hall, but five other ministers, who had been superseded, grew jealous of him and wanted to put him to death. They said, "he is seeking sovereignty" and in this way poisoned the ear of the king. "To-morrow when he comes, and stands inside the door, cut off his head.....and without saying a word to anyone throw his body on a dung-hill and then take a bath and return here," thus said the king to his ministers. When this plan failed they informed the king that reports of illicit connections between the queen and the ascetic were current throughout the city. The queen was put to death. The four sons of the queen knew their mother to be innocent and they now became hostile to their father. The ascetic finally emerged victorious out of the terrible struggle that had cost the kingdom its fair name and integrity, and peace and order were restored with the stern dismissal of the five ministers. The punishment, though severe, was quite proportionate to the heinous offence of which they were guilty. "The king stript them of all their property and disgracing them in various ways by fastening their hair into five locks, by putting them into fetters and chains and by sprinkling cow-dung over them, he drove them out of his kingdom."—528, pp. 125-26. Mr. Shivanath Basu has pointed out in an article, published in the *Journal of the Behar and Orissa Research Society* (Vol. IX, Pts. III and IV), that ministers were made slaves on certain occasions (see *Maha-umagga Jataka*). It is to be noted in this connection that the ministry was not always required to subscribe to one particular school of thought. In this respect we can have nothing but praise and admiration for the enlightened policy of the state that supported them—its broad, impartial and unorthodox outlook, that could easily accommodate five ministers, professing five different systems of thinking. One of them followed the Kshatriya creed according to which one's own interest was to be furthered even by killing one's parent

(eko ahetuvādi, eko issarkāraṇavādi, eko pubbekataṇṇavādi, eko ucchedavādi, eko khattavijjāvādi, p. 228, V). An interesting scene of court-intrigue is supplied to us in another Jātaka (547). Steadfast and pure counsellors were as much necessary as a wise king for bearing the burden of the kingdom just 'as rafters hold the peak' (398). Qualifications essential on the part of a minister are sometimes hinted at or speculated upon. A minister should not only be wise and able but fertile in expedients (upāyakusalo, p. 3, III). There were sixteen signs by which a bad intriguing minister could be easily distinguished from an honest one (amittalakkhanam, pp. 173, 473)—

" He smiles not when you see him, no welcome will he show,  
He will not turn his eyes that way, and answer you with No.  
Your enemies he honours, he cares not for your friends,  
Those who would praise your work, he stays, your slanderers commends.  
No secret tells he to you, your secret he betrays,  
Speaks never well of what you do, your wisdom will not praise.  
He joys not at your welfare, but at your evil fame  
Should he receive some dainty, he thinks not of your name,  
Nor pities you, nor cries about O, had my friend the same!  
These are the sixteen tokens by which a foe you see.  
These if a wise man sees or hears he knows his enemy."

The opposite signs were to be found in an upright minister. A king was advised to take in such men as his counsellors as were wise, saw his interest clearly, not given to riot and waste and were free from gambling and drunkenness (Amacce tāta jānāhi dhīre *atthassa kovide* anakkh' ākitave tāta asoṇḍe avināsake, p. 116, V..... '*atthassa kovide*' means in all likelihood persons versed in artha (Sastra? politics? 521). Kings were asked to deliver instructions to their subjects, so that they might not suffer from the conduct of unrighteous officials (521). Ministers of the same age as the king's were thought to be more useful to him than others (422, 257). King Sāmvara of Benares took pride in the fact that he was awaited by Mahāmātras and Mantris, versed

in 'artha' "Mahāmattā ca me *atthi* mantino paricārakā (462, p. 134, Vol. IV).

In the Vidhurapaṇḍita Jātaka (545) Vidhura is reported by the Teacher to have addressed his friends, enemies, relatives and associates on the text of the qualities which were needed for the attainment of success and pre-eminence in the king's court. A minister, when he first takes his seat in the court, is naturally regarded as a stranger, but he will gradually win the confidence of his master if he is really meritorious and morally strong. It is not for an idiot or a small-minded man to obtain recognition amongst a host of rivals. The path is perilous and full of obstacles, but no merit goes unrewarded. The king will not hide any secrets from him if he is really useful and trustworthy. "When he is asked to carry out some business, like a well-fixed balance with a level beam, and evenly poised he must not hesitate : if like the balance, he is ready to undertake every burden, he may dwell in the king's court." Mark the caution with which the novice is to proceed, the perfect self-mastery, which he is taught to command. He must be always in a state of readiness either by day or by night to undertake any work, entrusted to him by the king. He must not on any account use things specially meant for his master. 'He who sees a path made for the king and carefully put in order for him and refrains from entering himself therein, though advised to do so, he is the one who may dwell in a king's, court.' He must not wear a garment like the king's, nor garlands, nor ointment like his. He must not mimic the voice of the king. 'If the king sports with his ministers, or surrounded by his wives, let not the minister make any allusion to the royal ladies.' These are the courtesies, to which he should willingly harness himself. He should be possessed of insight and resolution. "Let him not sport with the kings' wives nor talk with them privately"—a habit which was very commonly at the root of much evil in those days. He must be a temperate man in his diet,

drinks, etc. He should not make a desperate attempt to be on very intimate terms with the king. "Let him prudently keep not too far from him, nor yet too near to him." It should always be remembered that the king is not an ordinary person—he is easily vexed. So if he finds anything wrong in his treatment towards him, he must not speak roughly to him. If he gets his opportunity, let him take it. But kings should never be trusted and as in the case of fire, the wise man should always be on his guard. The actions of the king should not be then and there criticised, but one should wait for suitable opportunities. "The wise man will keep his belly small like the bow, but he will bend easily like the bamboo." "One who is energetic in business, careful and skilful, and able to conduct his affairs successfully such an one may dwell in a king's court." He ought not to employ or promote a son or a brother who is not honest or virtuous. "Let him employ in offices of authority servants and agents who are established in virtue and are skilful in business and can rise to an emergency." "Let him know the king's wish and hold fast to his thoughts." It was his duty to render certain personal services ungrudgingly. "He will rub him with perfumes and bathe him, he will bend his head low when washing his feet. When smitten he will not be angry." And what should he do to win popularity and respect outside the environment of the court? "He will make his salutation to a jar full of water, or offer his reverential greeting to a crow, yea, he will give to all petitioners,.....he will give away his bed, his garment, his carriage, his house, his home, and shower down blessings like a cloud on all beings." The duties and qualifications of a minister, as shown above, reveal not a small amount of practical wisdom on the part of the person, whoever he may be, who discourses on them, and we must agree that some of the instructions are as weighty and valuable as the soundest maxims of the Kauṭilya. It is however a matter of doubt how far the picture applies to the period, whose characteristics we are discussing.

*Executive.*

The Jātakas fail to give us any clear and definite idea about the nature and working of the Executive. With the exception of the powers delegated to the villages, it appears that most of the executive functions were carried on by the king, which could hardly have been the real state of things. There is, however, no doubt that a sovereign of strong personality would now and then look to the smallest detail of the administration, but it is at the same time hardly probable that the numerous officials of the kingdom had practically no initiative or authority of their own and that in every matter they were dependent upon the orders of the king. All the multifarious actions of central interest must have been controlled by an advisory committee of leading ministers, and the ordinary functions left to responsible officers such as city-governors, etc. And it is not unnatural that all these came to be attributed in a legendary manner to the monarch, the supreme and the highest executive authority in the state, without any rational discrimination amongst its varied duties and functions in most cases. Thus when a theft was committed in a city, the townsfolk are represented as having directly reported it to the king, who gave orders to the governor of the city (nagaraguttika) to have the robber arrested. When he was arrested, the king again ordered the same officer to have him executed (318, 419). Administration of law and order is considerably hampered if such a responsible officer as the head of a city has not the authority to arrest even a thief without taking orders from the king.

*Criminal Laws.*

Criminal laws were characterised by great cruelty and no quarters were shown to culprits. But the application of

these laws was often delayed or stopped owing to the venality of officer. *Capital* punishment was prescribed even for thieves and robbers (419, 318). Tortures were practised (419). The criminal code, if there was any, sometimes appeared abhorrent to kings who had highly developed moral sensibilities. Thus one king 'opened *prison* door for good and all and the places of execution he destroyed' (468). On a former occasion his father had given a general pardon to all prisoners (bandhanagārāni sodhāpetvā—p. 176, IV). It was the custom to put a garland of red flowers (vajjhamālā) round the neck of a criminal, when led to the place of judgment in a hand-cuffed condition (472). Different classes of offenders were sometimes banished from their country in great humiliation with all their property confiscated to the state, or were ordered to live in the Caṇḍāla settlement. Shaving the heads of criminals was regarded as a great punishment (542). Offenders were sentenced to pay fines, etc. Prisoners were treated more as beasts than as men (537). Brahmins were not exempted from the operation of laws applicable to other castes. A royal chaplain, feigning theft, was sentenced to *capital punishment* by the king (86). Thieves and criminals of sorts are mentioned in some cases to have been hurled down from precipices (472). Mutilations were also resorted to (240). Impalement might have been in vogue (444).

### *Judiciary and Justice.*

The administration of justice was one of the primary functions of the state and the importance and necessity of a conscientious discharge of legal duties is frequently emphasised. The Buddhist Jātakas present us with interesting accounts of legal proceedings, of miscarriages of justice and of impartial and thoughtful judgments. Useful instructions

for avoiding errors of hasty and careless decisions are abundant, which go to shew that so far as abstract principles of justice are concerned, there is not much difference between the ancient and modern ideals. There is, however, no reference to a definite code of law, by which every case was to be decided; and so the personal characteristics of a judge, his temperament, habits and idiosyncracies, played not a small part in the decision of cases, brought before him for adjudication. There is no evidence pointing to the existence of any regular gradation of courts—only the *Hall of Judgment* stands out majestically in an isolated grandeur, the most conspicuous institution through which the power and authority of the state were expressed. The king was universally regarded as the fountain of justice. During early stages of socio-political progress, people carefully considered, before offering the mantle of sovereignty to any person, whether he was endowed with the necessary physical fitness and powers of leadership. The Jātaka tradition shews that another question demanding their serious attention was whether he had the qualifications and the mentality of a careful and competent judge. There are many instances to shew that kings sometimes personally conducted cases, not as the highest and the ultimate judicial authority, hearing appeals and delivering judgments on them,—terminating the entire judicial process that might be available in the country,—but in the manner of offering the immediate and the nearest legal remedy without the parties having had the necessity to pass through any intermediate institution (331, and 332). There was, again, the court of judgment, where justices, appointed by the king, had to attend to their daily round of duties. Litigation considerably diminished if the general policy of the administration itself was pervaded by a spirit of justice and righteousness. It is interesting to note that administration of justice was one of the most effective links that bound the different portions of a kingdom to the

central organisation of the state. Thus if a dispute arose in a remote village and if one of the litigant parties wanted redress from the royal court, the other party was bound to comply with the demand and proceed to the capital (257). The practice of having a panel of justices, exclusively devoted to the duties assigned to their post, was not followed without any exception. Not infrequently do we find Commanders-in-chief or royal chaplains engaged in doing the work of a judge in addition to their normal duties in their respective spheres of action (220, 51, 1 etc.). One Jātaka gives the number of judges as five. The post of a justice was named that of a Viniccayamācca.

We may now refer to the nature of cases which generally used to be tried by a king or his court of law and the procedure followed in the decision of these suits. No reference need be made to the ordinary cases of theft or robbery, which do not usually supply us with any interesting feature calling for special notice. An innocent man might now and then be arrested on a charge of theft, not an uncommon occurrence to-day even in countries which may boast of the most perfect administrative system. Inflictions of tortures with a view to extort confessions were then prevalent as now (92). We may easily sympathise with the poor fellow, who is forced to plead guilty to any charge brought against him only to avoid the crushing blows ruthlessly administered to him. "If I deny the charge, I shall die with the beating, I shall get some from these ruffians. I'd better say I took it." So the man had to confess to the theft. Gāmaṇicanda, a retired government servant, the most innocent man that ever was born in this world, was rendered into a hopeless criminal under circumstances over which he had no control. He stood charged of four offences including murder, and was hauled up before the king. The plaintiff in each case having represented the cause of his complaint to the king, he questioned Gāmaṇi about its



correctness. The latter on every occasion replied in the affirmative, but he also told his own story by way of justification without making any secret of it. Then the king in two cases turned towards the plaintiff and asked whether some points in the statement of the complainant, which struck him as crucial, were true, and the reply was that they were not so. But when pressed they could not deny. Thus both the parties were ultimately found to be guilty, the charges brought against Gāmaṇi were true, but then the parties who had instituted the suits were also guilty of wilful suppression, or denial of truth. Hence both the parties, plaintiffs and the complainant, deserved to be punished and the decisions contained such conditions as ever took the breath of a Shylock away. One of the judgments runs thus—‘ You failed to return the oxen, and therefore you are his debtor for them. But the man in saying that he had not seen them told the direct lie. Therefore you with your own hands shall pluck his eyes out and you shall yourself pay him twenty-four pieces of money as the price of the oxen’ (No. 257, p. 212, II). In the other suits where Gāmaṇi stood charged of miscarriage and murder respectively, they were not offences, wilfully committed, but due to sheer accidents. He was, therefore, released (257). One was to pay fine for causing an untimely birth or compensation for any loss for which one might be liable (210). Some boys of a village were charged with the murder of a doctor and were brought before the king for trial. As the case seems to be rather unusual a few details from it may not be considered superfluous. Certain boys were playing at the foot of a banyan tree, at the entrance of a village. A poor old doctor at that time who had no practice strayed out of the village to this spot, and ‘ saw a snake asleep in the fork of a tree with its head tucked in.’ He thought, ‘ there is nothing to be got in the village. I will cajole these boys and make the snake bite and then I shall get somewhat for curing them.’ One of the boys was told by the doctor ‘ If you were to see a young

hedgehog, would you seize it?' The boy answered 'Yes, I would.' 'See here is one lying in the fork of this tree.' The boy climbed up the tree and seized it by the neck, but when he found it was a snake, he did not allow it to turn upon him, but 'getting a good grip of it, he hastily flung it from him.' It fell on the neck of the old doctor and he died instantly (367-368). All the boys were arrested and, as already stated, placed before the king for trial. The whole matter was carefully investigated, and this must have been done according to the current legal procedure. When their innocence was proved, they were set free. A judge is found deciding a suit between a villager and a townsman, the latter was guilty of wrongful possession of some ploughshares, belonging to the former, who was again guilty of kidnapping the latter's son (218). The process of cross-examination, which is so valuable in the ascertainment of truth, was only imperfectly and vaguely known in those days, and was resorted to by the judge himself (164). (Here one of the parties is a vulture.) *Fire-ordeal* for the sake of proving the chastity of a woman is referred to (62), but it does not appear that the system was employed and supported by the government. Cases of disputed ownership were frequently decided in the court, but justice could hardly be expected from a set of unprincipled and dishonest judges. Rightful owners were frequently defrauded and justice was grossly abused (220). A Commander-in-chief or a royal chaplain who acted also as a judge, had no moral scruples in taking bribes and giving a false judgment (220, 511). Thus men and women were often reduced to the most miserable condition on account of the corruption which vitiated the atmosphere of the Hall of Judgment. A courtesan once came to the court to take advice as to whether in the eye of the law she was still bound by the terms of a contract entered three years ago with a man, who had since not made his appearance. Suits of this sort involving contractual rights and obligations

must have been quite commonly tried in the law courts. It appears that with the growth and development of various trades and professions, ordinary judges came gradually to realise great practical difficulties in dealing with an ever increasing diversity of cases, full of complications and technicalities, requiring a comprehensive knowledge of the special laws and regulations, which guided the transactions of the different guilds and corporations. To obviate these difficulties a judgeship of the merchant guilds was instituted and it was usually conferred on the Treasurer who was the fittest person to hold the post by reason of his intimate and enduring association with the trade and commerce of the country (sabbasenīnām vicāraṇārahaṁ bhaṇḍāgārikaṭṭhānaṁ, p. 43, 446, IV). Mrs. Rhys Davids' theory of the origin of this post is suggestive and has generally been accepted by scholars—J.R.A.S., 1901, p. 865.

The proceedings of the court, as noted above, do not anywhere disclose the familiar picture of lawyers, defending their clients in a court of law. But there is one Jātaka, viz., No. 155, where a certain Brahmin is described as earning his livelihood by following the profession of a lawyer (kāsiratṭhe ekasmin brāhmaṇakulanibbatti. Tassa pita *vohāram*<sup>1</sup> katvā jīvikam kappeti—No. 155, II, p. 15). It seems that the country was actually in need of their services and the legal apparatus, revealed in these stories, was not as a matter of fact so simple as described. *A Book of Judgments* was written by a Bodhisatta, who was none other than a wise pig, after the death of the king whom it had served, and it was declared that in future all suits were to be decided on consulting this authoritative work (388...Mahāsatto...vinicchaye potthakam likhāpetva, “iman potthakam olokenta attam tireyyāthā,” p. 292, III). The question of its authorship is immaterial here and there is no reason why the existence of such useful works should be doubted, when one of the foremost duties of a government was to administer justice in the strictest sense

<sup>1</sup> Cf. *Viyohālasamatā* (P.E. IV of Asoka).

of the term. Wrong sentences, delivered by one justice, might be reversed by a stranger (220, 528), if he judged rightly and the latter would afterwards be formally appointed by the king as a judge. A king in appointing a judge gave the following directions as to the time he should daily spend in deciding law-suits:—‘ You need not judge the whole day, but.....go at early dawn to the place of judgment and decide four cases; then return.....and after partaking of food, decide four more cases,’ so that he was required to settle disputes at the rate of 8 per day (528). This arrangement was made for the convenience of an officer whose time was mostly occupied in spiritual work.

The duties and qualities of an ideal judge are repeatedly described with great force and cogency chiefly in verses of the Jātaka stories. If we study them carefully, we shall be convinced that the standard of justice, set up in that remote age, was indeed very high and difficult to surpass. These descriptions occur in connection with kings who administered justice personally, but what is there to doubt that they did apply equally to all men who ever sat in judgment? Speaking of this age in general, one might argue that the principles of justice were admirably sound, but the machinery for carrying them out was not always efficient and was somewhat ill-developed. To award punishments was a duty of the sovereign, as well as those who were entrusted to settle legal disputes. But only the guilty should be punished. The Jātakas repeatedly say that the utmost care is to be taken to eliminate the chances of innocent persons being visited with punishments. Every case should be minutely gone into, all its details completely mastered. The king should not punish an offence without ‘thoroughly sifting it himself in all points, great and small’ (these lines also occur in the Dhammapada, p. 341)—*Nādaṭṭhā parato dosam... issaro panaye dandam samam appaṭivekkhiya*—p. 192, 472, IV. One who punished the guiltless and released the guilty is compared with the

blind man who does not know his way (472). Circumspection (nisammakārāṇā bhavittabbam—p. 30, 444, IV), is another quality demanded of a judge. A very sound maxim is couched in the following verse, the sense of which is that a circumspect and successful action, which is the offspring of a careful policy, is as efficacious as good medicine :— Nisamma ca kataṁ kammaṁ sammāvatthāya cintitaṁ bhesajjasseva sampatti vipāko hoti—451, 505. The Jātaka mentality had the greatest abhorrence for 4 types of men ;—

“The idle sensual layman I detest  
 The false ascetic is a rogue confest.  
*A bad king will a case unheard decide,*  
 Wrought in a sage can ne’er be justified.”  
 (rājā na sādhu anisammakārī—505, p. 451).  
 “The warrior prince take careful thought and well-weighed  
 judgment gives :  
 When kings their judgment ponder well, their fame for  
 ever lives.”

Punishment should be given “with careful measure,” *i.e.*, they should strictly be proportionate to the offences committed, thus putting a curb upon hasty and arbitrary judgment. Every single thing should be carefully weighed, etc. All these principles and maxims are no doubt genuine and wholesome from the abstract point of view, but the folklore’s, support for the view that judicial arrangements were sound and efficient, is, in our opinion, too inadequate to go upon. It seems that the capital punishment could be awarded only by a king, and not the ordinary justices.

### *Armies, warfare, weapons, etc.*

Not only there were armies in the capital of a kingdom, but troops were stationed on its borders (paccantayodhā). The unsafe condition of the outlying parts, on account of the depredations of robbers and the aggressions of neighbouring

kings, no doubt kept the hands of these soldiers full. When they failed to cope with a situation, they sent letters to the king, who generally proceeded immediately to the scene of operations even though the season might not be favourable for such a course (176). The fourfold division of the army was as familiar in this period as in any other (*caturāṅgiṇī senā*—230). When a fight was to ensue, the whole army was assembled for the purpose by a beat of drum about the city (*nagare bheriṇ carāpetvā balakāyaṁ sannipātetha*—p. 170, 467, IV), from which one might infer that there were either no fixed quarters for the troops or that they lived in different barracks in different parts of the city and were, therefore, required to be collected together by some convenient means. Or was it calling a citizen-militia to arms? Elephants were regarded as the most serviceable in wars. There is a reference to archers, clad in mail, also to helmets, leather shield and infantry in the following verse :—*Na te abhisaraṁ passe na rathe nāpi pattike, nāssa cammam vā kitam vā vāmmine ca dhanuggahe*—(534, p. 313, V, trans., p. 198). The order of battle was of three kinds, two of which are mentioned in detail (492), *viz.*, the Waggon Battle and the Lotus Battle (*yuddhaṁ nāma sakaṭavyuhādivasena tividdhaṁ hotīti.....padumavyūhaṁ saṁvidahi*, etc., p. 345, IV). How this Lotus Battle between a bear and a tiger was arranged, is described in a legendary manner, as follows :—“ In the midst he placed the sucking pigs, and around them their mothers, next to these the barren sows, next a circle of young porkers, next the young ones with tusks just a-budding, next big tuskers, and the old boars outside all. Then he posted smaller squads (*dasavaggam visativaggam*, etc.), often twenty, thirty apiece here and there. He made them dig a pit for himself, and for the tiger to fall into a hole of the shape of a winnowing basket ; between the two holes was left a spit of ground for himself to stand on. Then he with the stout fighting boars went around, everywhere encouraging the

boars." The order was a concentric one, based on a careful adjustment and assortment of the varying degrees of strength of the different elements of the army, and the posting of the different grades of the fighting material in such a fashion that the strongest and the most efficient of the members always occupied the outermost circle. The skill and energy of fighters were often taxed to the utmost in scaling or battering down walls of the enemies' cities and sometimes they failed to do either, because these happened to be very well-fortified (353, 545 etc.—*parehi appadhamsiyam*). There was no lack of attention so far as fortifications of towns were concerned. Besides the walls, already referred to, they had towers and trenches (*dadhamattālakoṭṭhakam*) and were surrounded by moats (*ukkhiṇṇataraparikham*—458), which obstructed the approach of enemies as far as practicable. In one instance along the rampart of a city, watch-towers were constructed at the four gates and between the watch-towers three moats were dug, *viz.*, a water moat, a mud moat, and a dry moat—*maliapakaram*, *udakaparikham*, *kaddamaparikham*, *sukkhaparikham*—(546 p. 390, VI). An invading army is thus commanded by the king—"Disperse all about the city, fill up the trenches, break down the walls, raze the gate towers, enter the city, use the peoples' heads like pumpkins cast on a cart, etc." Mighty warriors, belonging to the other party, were roused up; armed with all manner of weapons, they marched up to the gate and red-hot missiles, showers of mud and stones were thrown upon the invaders. When the latter started to destroy the wall from the ditch, men in the gate-towers dealt havoc with arrows, javelins and spears, with the result that the attempt of the invaders ignominiously failed. Strategies and diplomacy played an important part in warfare. Men with shrewd commonsense and profoundly wise, were often at the helm of military affairs, and their endless manoeuvres and novel tactics lent considerable interest to martial operations, which were not mere trials of physical

strength and military resources between warring parties but also a game in cleverness. Stoppage of the supply of provisions by means of blockade was a very familiar device, appreciated even by a female, by which obstinate resistance could be forced into surrender. In order to prevent the calamity, consequent upon a blockade, elaborate and comprehensive measures were adopted beforehand for storing food, water, and other necessities of life by far-sighted ministers and advisers of kings (546). Spies were regularly employed to watch the activities and preparations going on in the enemy's camp and their secret reports largely helped to determine lines of actions which were to be taken to counteract their movements. There were crocodiles in the moats, and certain places infested by snakes, which were not known to foreigners and hence could be used to bring about the destruction of hostile warriors in quite an unsuspected manner (546, p. 205). Efforts were made through the help of spies to put the most valuable instructor in the opposite camp to disgrace in the estimation of his master and so to represent facts as to produce an impression that the whole army had been corrupted by taking presents from the other party, thus leading to the inevitable weakening and disintegration of his forces and a total failure of all his plans. Most of these soldiers were next destroyed by being trapped into the dangerous spots, already referred to, and those who remained fled pell-mell with the king at their head. Construction of tunnels, strategic arrangements of cities and various huge mechanical devices were well within the range of possibility for a practical statesman, but it is certainly difficult to say how far these are mere figments of imagination or founded on truth. Flight of the king from the field of battle was an unfailing signal for his party to retreat. But there were also brave kings who could inspire their soldiers with great courage and enthusiasm (229) by impassioned speeches. The war music is compared to the deep rumble of clouds (vathat'ajja tumulo ghoso, yutho vijjuta



jaladharassa gajjato). Women's part in encouraging soldiers is distinctly shown in Jāt. 546. Masses were not in a disarmed condition as at present but they could readily command rough weapons and fight in the interest of self-protection and freedom.

### *Towns.*

In a kingdom, 300 leagues in circuit, the chief city measured 7 or 12 leagues. Thus Mithila in the kingdom of Videha was 7 leagues (489) and the city of Benares 12 leagues in circuit (282). Towns and cities were well protected, special care being bestowed on the proper defence of the capital against foreign inroads. A city had four gates in the four main directions and was surrounded by a wall (pākaram). An iron town is mentioned (439) which is called ayasaṃ and daḥhapākaraṃ, most probably meaning that the wall enclosing it, was made of iron. The archway of the city-gate is frequently referred to (nagaradvātorāṇa—140). The height of a city-wall was 18 cubits (attharasahattham pākaram—469). The tower of the city-gate at Takkasila was as magnificent as the palace of the king nagaradvāraṇakotthako—229). There are references to 84 thousand cities in a kingdom (95) and 63 thousand cities in another kingdom (454). A town with 80 thousand shops is mentioned (437). Municipal improvements in a city are referred to in 547. A town of capenters consisting of 1000 families is mentioned (406), reminding us of similar villages.

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## APPENDIX.

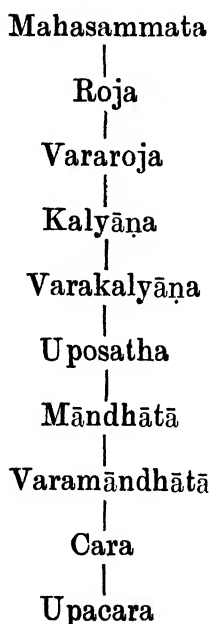
The following is a list of kings, mentioned in the Buddhist Birth-Stories, together with synopses of details recorded about them. The list includes almost all the important princes mentioned in the Jātakas. But notable absentees are the Brahmadattas of Kāsi. The title "Brahmadatta" being a dynastic denomination, it is hardly possible to individualise or identify the kings of that name. This list has furnished some material for elucidation in the foregoing Chapters and it is hoped that an attempt has been made here for the first time to present within a small compass all the traditions about ancient Indian kings, dealt with in the Jātakas. Some of the names may be purely legendary.

*Aṅga*.—King<sup>1</sup> of Aṅga (Angaraṭṭhe-Jā. 506)—His rival was Magadha, king of the country of Magadha. The river Campā divided the two neighbouring kingdoms. There were frequent wars between them. On some occasions king Magadha took Aṅga and on others the reverse happened. Once Aṅga defeated Magadha (C, Vol. IV, pp. 281-290; F, Vol. IV, pp. 454-468). The latter out of shame drowned himself in the river Campā but he was rescued by the Serpent King, Nāgarāja, Campeyyo with whose assistance king Aṅga was captured and slain. His enemy King Magadha now ruled over two states.

*Aṅgati*.—A righteous Kshatriya king of Videha, ruling at Mithila. He had a daughter named Rujā and three ministers, Vijaya, Sunāma and Alāta. Once he paid a visit to Guna of the Kassapa family, an ascetic and scholar of celebrity. The king imbibed heretical views from him. His daughter Rujā tried in vain to prove the worthlessness of the ascetic's teachings. Nārada Kassapa came from the Brahma

world and succeeded in winning him back to the right path (No. 544, C, Vol. VI, pp. 114-123 ; F, pp. 219-255).

*Apacara*—Also called *Upacara*. King of Cedi reigning in the city of *Soṭṭhivati*. The founder of his line apparently was *Mahasammata* who flourished in the dawn of history (*pathamakappe*). The names of *Apacara* and his predecessors are shown in the following genealogical table :—



His chaplain was a Brahmin named *Kapila*, who had a younger brother of the name of *Korakalamba*. *Korakalamba* and the king received their education in the different arts from the same teacher (*ekācāriyakule uggahitasippo*) and while a prince, *Apacara* had promised to appoint him to the post of his family priest, when he would be installed as king. But the promise was not realised. *Kapila* retired as an ascetic and his son who had been recommended by him to the king was made the family priest as his successor. Later on the king wanted to make *Korakalamba*, the senior priest (*taṁ mahallakam katva itaram te kaniṭṭham karissāmiti*) and *Kapila's* son the

junior priest. This arrangement could not be carried out unless the king told a lie. "It was a time, they say, when the world told the truth. Men did not know what the word 'lie' might mean." The king lost all his supernatural faculties with which he was endowed and, though repeatedly asked to recant, he maintained his position with unshaken obstinacy even in the face of death which came as a punishment to him. The kingdom of Ceti was banned. At the advice of Kapila the five sons of the deceased king founded five cities in different directions, *viz.*, Haṭṭhipura, Assapura, Sīhapura, Uttarapañcāla and Daddarapura. (No. 422, Vol. III.)

*Arindama*.—Prince, son of a king of Magadha who reigned at Rājagaha, (Rajagahe Magadharāja) by his chief queen. He went to Takkasilā for education with his friend Sonaka, son of the royal chaplain. Returning from Takkasilā after the completion of the course, they chanced to come to Benares, where the king had died leaving the royal family without any male heir (aputtakam rājakulam, p. 248, Vol. V, F). Prince Arindama became king of Kasi by the choice of the Festal Car. Sonaka who had turned an ascetic before Arindama's elevation to the throne of Kasi, came back after a long time to meet his friend. The king now renounced the world and followed his friend leaving the throne to his only son Dīghāvu (F, Vol. V, No. 529, pp. 247-261 ; C, Vol. V, pp. 127-131).

*Aritthajanaka*.—The elder of two sons of Mahājanaka, king of Videha, with his capital at Mithila. During the lifetime of his father he was employed as Viceroy, Uparāja, and on his death ascended the throne. He was killed by his younger brother Polajanaka. The widowed queen fled from the kingdom and lived as a sister with a Brahmin scholar at Kalacampa, where she gave birth to Arittha's posthumous son, Mahājanaka. On attaining age, he came to Mithila where Polajanaka had been dead sometime past, married his daughter and occupied the vacant throne of Videha (C, Vol. VI, pp. 519-537 ; F, pp. 30-68).

*Assaka*.—King of Assaka, reigning in the city of Potali (Assakaratṭhe Potalinagare). His contemporary was Kālīṅga, king of the Kālīṅga country, with his capital at Dantapura. Probably the real name of the Assaka king was Aruna (*cf.* Arunarajassa Sihena Susatthena Surakkhitam). Four daughters of the Kālīṅga king were seized by Assaka at the advice of his minister Nandisena, while they were passing his capital. This led to a battle between Assaka and Kālīṅga, which was fought on the frontiers of the two kingdoms (Ubhinnam rājāṃ antare yuddham, p. 4, Vol. III). It was prophesied by Sakka that Kālīṅga would be victorious. But Assaka under the valuable direction of Nandisena defeated Kālīṅga who fled from the battlefield. Peace was ultimately restored between the two kings (F, Vol. III, No. 301, pp. 1-8; C, pp. 1-5).

Referred to as a king who made vast gifts in the past (No. 541, Vol. VI). His name occurs in a verse along with others including Dudipa, Sagara, etc. (Vol. VI, p. 99, F).

Potali, the capital of an Assaka king, was a city under the king of Benares (No. 207, Vol. II, F, p. 155).

*Avanti*.—Maharaja of Avanti at Ujjain. During his time the Great Being was born in a Caṇḍāla village outside the city of Ujjain (No. 498 F, Vol. IV, pp. 390-401; C, pp. 244-250).

*Ajjuna*.—Referred to (No. 522, Vol. V, p. 72, C; p. 135, F) as a thousand-armed king who perished along with his kingdom for having offended against Aṅgīrasa. He slew the holy Aṅgīrasa for which he was cast into a hell (verse C, p. 76, Vol. V, F, 143-44).

King of Kekaka (Kekakādhīpa), endowed with a thousand arms, and a gigantic size (Atikāya), was a great archer. He brought about his own destruction for an act of misdemeanour against R̥shi Gotama (verse C, p. 137; F, p. 267, No. 530).

“ The Giant Ajjuna (balava bhimasena)

Round whose huge bulk a thousand arms once grew,

Each several pair with its own threatening bow  
Heaped on the sacred flame the offerings due"—

an example to illustrate the potency of sacrifices, of gifts bestowed on Brahmins, which lead one at once to the world of the gods (No. 543, C, p. 108 ; F, p. 201).

The *eldest* of the five sons of king Pāṇḍu. The five brothers received their education at Takkaṣilā and on coming to Benares they were married to princess Kanhā, posthumous daughter of a king of Kosala who had been killed in battle by a certain Brahmadata, king of Kasi. The lady was unchaste and disloyal. Her wickedness was exposed by the eldest prince Ajjuna and the five brothers in sheer disgust left the world to pass their time in the Himalayas (Kuṇḍala Jātaka, No. 536, F, Vol. V, pp. 412-456 ; Cowell, Vol. V, pp. 219-45).

*Aṭṭhaka*.—Subordinate to the king of Daṇḍaka within whose realm his territory was situated. Two other princes enjoying the same status were Kālīṅga and Bhīmraṭha. It appears that he was probably, and curiously enough, a contemporary of Caṇḍapajjota, mentioned in another place of the same Jātaka (No. 522, F, Vol. V, pp. 125-151 ; C, pp. 65-79). These three princes visited the great ascetic Sarabhaṅga on the banks of the river Godāvarī and they were influenced by his elevated discourses.

A king, who belonged to the past, gave immense gifts but failed to get 'beyond the domain of sense' (verse No. 541, C, Vol. VI, p. 55 ; F, p. 99).

A righteous king who by his devoted services in honour of Brahmins and Sramanas, obtained a passport to Indra's heaven (C, Vol. VI, No. 544, p. 125 ; F, verse, p. 51).

*Bharu*.—King of Bharu. He took bribes from ascetics and decided cases in their favour. At the bidding of the angry gods the whole kingdom extending over 300 leagues was merged under the sea (tiyojanasatikam Bharuraṭṭham aratṭham akamsu, No. 213, F, pp. 166-173, Vol. II ; C, pp. 119-120).

Lord of the kingdom of Bharu (Bharuraṭṭha Bharurājānāma), which had a seaport town (pattanagāma), called Bharukaccha. Here was born Suppāraka Kumāra, son of a leading mariner (niyyāma jeṭṭhaka) and himself an expert seaman (Niyyāmakasippe, niphattim patvā). The king appointed him to the post of Valuer (Agghāpaniyakamme) but he gave up his office, dissatisfied at a low reward offered by the king on some occasion. This Jātaka gives us a rare picture of the extensive maritime activities of Bharukaccha during his rule (No. 463, F, Vol. IV, pp. 136-43; C, pp. 86-90).

*Bhallatiya*.—King of Benares. Once he went to Himalaya on a hunting excursion with a “well-trained pack of hounds. He travelled along the Ganges until he could get no higher, then followed a tributary stream for some distance, killing deer and pig and eating the flesh boiled.” While climbing Mount Gandhamādana, he listened to two fairies speaking love to each other. This changed the mind of the king who returned to his country, three-hundred leagues in extent, gave up his hunting habits and made charities to the poor throughout the rest of his life (F, Vol. IV, No. 504, pp. 437-444; C, 271-275).

*Bhagīrasa*.—A king who flourished in the past and made extensive gifts (verse No. 541, C, p. 55; F, p. 99).

*Bharata*.—A great king, Mahārāja, reigning in the city of Roruva, in the kingdom of Sovira. His chief queen was a wise lady named Samuddavijaya. At her advice he once distributed gifts among seven Paccekabuddhas. The king was of a very pious nature and made charities throughout his life (No. 424, Vol. III, F, pp. 469-474; C, pp. 280-282).

*Baka*.—A king of Benares. He was infatuated by the soft touch of a village maiden called Pancapāpa, whom he used to visit every night in disguise, and early in the morning it was his wont to return to the palace. Later through an interesting incident his connection with the woman was revealed to the people and she was agreeably surprised to find

that her lover was none other than the king himself. She was now brought to the palace and raised to the dignity of the chief queen. Afterwards she dreamt a dream, which was interpreted to predict the immediate death of the king. At the suggestion of the soothsayers she was placed on board a ship and was let alone to drift down a river. She was accepted by King Pavariya as his wife. This led to a misunderstanding between Baka and Pavariya and an imminent conflict was averted by the wise advice of the councillors of the two kings. It was stipulated that each of the two kings should live with Pancapāpa alternately for a period of seven days (C, No. 536, Vol. V, pp. 219-245; F, 412—)

*Caṇḍapajjota*.—Sarabhaṅga, a great ascetic living on the banks of the Godāvarī, asked his disciple Sālissara to go to Lambacula, a town in the kingdom of Caṇḍapajjota (Caṇḍapajjotarañño vijite Lambacūlakam nigamam) and to settle there. The kingdom of Avanti in Dakṣiṇāpatha (Dakkhiṇapathe Avantiraṭṭhe—p. 133, Vol. V) is referred to on the same page but the name of the king is not mentioned. Contemporaries of C. were kings Daṇḍaki, Aṭṭhaka, Kalinga and Bhimratha (No. 522, Vol. V).

Pajaka is mentioned in place of this king, to whose country the sage Salissara is asked to go (No. 423, Vol. III).

*Cūḷāni-Brahmadatta*.—He reigned in Uttarapañcāla city in the kingdom of Kampilla. His adviser was a Brahmin named Kevatta. Following his advice the king started a vigorous career of conquest and established in the course of a little over seven years his undisputed sway in the whole country excepting Videha, by subduing 101 princes who joined his army. C.'s attempt to conquer Videha, however, failed owing to the astute opposition of the minister Mahosadha. C. now offered to marry his daughter Pañcāla-caṇḍī to the Videhan king and invited him to the city for the purpose with the ulterior motive of putting him to death during his stay in his own capital. But the unfailing



alertness of Mahosadha saved his master from the base plot to which he was about to fall an unconscious victim. He dug an underground tunnel from Mithila to Uttarapañcāla, got 300 ships ready within a short time and in the most ingenious manner effected the safe passage of his master from the enemy's country to Mithila with Pañcālacaṇḍī, who was now his wife, Pañcālacaṇḍa, son of Cūlāni Brahmadatta, and the latter's wife. Ultimately a happy reconciliation was arrived at between the two kings. Mahosadha, after the death of his master, left the kingdom of Videha and passed the remainder of his life with Cūlāni Brahmadatta of Kampilla. (No. 546, Vol. VI.)

*Chatta*.—Son of king of Kosala who reigned at Sāvātthi. When he was taken prisoner by Brahamadatta of Benares who had conquered Kosala, C. made his escape in disguise, went to Takkasilā and after having received his education there, turned an ascetic. He came to Benares where the king took him into his confidence. He acquired all the treasures of his father which Brahmadatta had buried under the ground and with these resources went to Sāvātthi and speedily recovered the lost kingdom of Kosala. The city was made impregnable against any possible attack from outside. (No. 336, Vol. III.)

*Cara*.—The immediate predecessor of Upacara, king of Ceti, who ruled in the city of Sotthivati. (No. 422, Vol. III.)

*Dabbasena*.—King of Kosala. A minister who had mis-conducted himself in the royal harem of Benares was driven out of the kingdom and took service with D... The Kosalan king captured the ruler of Benares while he was seated in the midst of his ministers (amaccamajjhe nisinnam) and subjected him to severe physical tortures as a punishment. D., the robber king (coraraja, translated by Cowell as "rebel prince") was visited with an attack of a burning pain and he got rid of it by setting the Benares king free and restoring the kingdom to its former master. (No. 303, Vol. III.)

The dismissed minister was really responsible for the catastrophe which had temporarily befallen Benares as it was he who had inspired the Kosalan king with the idea of conquering that country. (No. 51, Vol. I.)

But the Benares king was sentenced to death from which he made a miraculous escape and was finally restored to his kingdom. The Kosalan king was a usurper. (The Ekarāja Jātaka connects itself with the Mahāsilava Jātaka and clearly points out that the Kosalan king therein referred to is Dabbasena—So Dabbasenam nāma Kosalarājānam upaṭṭhahanto ti sabbam Mahāsilavajātaka kathitam eva—line 17, page 13, Vol. III, F).

*Dīghāru*—(Var. Lect. Dīghayu, Dīghitikosala-Jātaka) Prince of Kosala. His parents were slain by a Benares king (N. 371). Brahmadatta, the king of Benares, put Dīghāvu's father Dīghati to death and took his kingdom Kosala (No. 428). When living in disguise (p. 487, F, Vol. III, Kosambi-Jātaka), the prince happened to meet the Benares king in an unprotected condition, but such was his self-control that he had no difficulty in denying himself the pleasure of an easy vengeance upon the slayer of his father. The king of Benares highly pleased at his conduct, married his daughter to him and returned his father's kingdom. The two kings henceforward lived on friendly terms.

The eldest and only son of king Arindama of Benares, who became king on the renunciation of the throne by his father in favour of an austere life. (No. 529, Vol. VI.)

Prince of Videha and son of Mahājanaka. Became king on the retirement of his father as an ascetic (No. 539).

*Dhanañjaya*.—A king of Benares. In his time the Bodhisattva was born as a parrot named Rādha (No. 329, Vol. III).

A Koravya king ruling over the Kuru country in the city of Indapatta (Cowell mentions Indapattana, which is a mistake). (Vol. V, p. 57.) He was born in the lineage of Yudhiṭṭhila (Yudhiṭṭhilagotta) by which name he was known.

(Verse—). His family priest was Vidhurapaṇḍita (No. 545, Vol. VI; No. 276, Vol. II), who became his “adviser in matters spiritual and temporal” (Purohitaṭṭhānam labhitva rañño attahdhammanusāsako).

The king was in the habit of showing favour to newcomers (Agantum kurute piyam), neglecting the old and trusted soldiers, which policy was responsible for his defeat in a battle ‘in a disturbed frontier province.’ The king found out his mistake with the help of Vidhurapandita. (No. 401, Vol. III.)

His family priest was a Brahmin called Sucirata. The king asked the Purohita to enlighten him regarding the character of the ‘Good and the True’ (Atthañ ca dhammañ ca). Sucirata sought the help of Vidhurapaṇḍita who, according to this Jātaka, lived in Benares. His son, Sambhaba, a lad of seven years, gave the correct answer which was conveyed to D. who highly appreciated it. (No. 515, Vol. V.)

He was so righteous that in his realm it rained every ten or fifteen days (No. 276, Vol. II).

His son by the chief queen was called D. The celebrated minister of his father, Vidhurapandita, continued to be his adviser when he ascended the throne of the Kurus after the death of his father. The king once withdrew into his garden, leaving his court and the company of 16,000 dancing girls, to practise meditation like an ascetic. Here he was met by Sakka, Varuṇa, the Nāga king and the Supaṇṇa king. The question arose as to who was the most meritorious of this group of four kings and it was admirably solved by V. P., to whose judgment they all submitted. This D. was famed for his skill in dice. He was defeated in a game by Punṇaka, the Yakkha general of Vessavana, and by whom Vidhura who introduced himself as a slave from his birth was carried to the Nāga king. He was, however, brought back to Indapatta in the land of the Kurus with a precious jewel which had formerly been carried off by Punṇaka from the Vepulla Mount

in Rajagriha, the possession of which implied universal sovereignty. This was given to the Kuru king by Vidhurapaṇḍita. (No. 545, Vol. VI.)

*Dummukha*.—King of Uttarapañcāla reigning in the city of Kampilla (Uttarapañcālaratṭhe kampillanagare—p. 379, Vol. III, F). He was struck by the evils of lust and abandoned his kingdom to embrace the career of an ascetic. In this new life he had three associates who had all once been kings, namely, Karaṇḍu, king of Kālīṅga, Naggaji of Gandhāra, and Nimi of Videha. (No. 408, Vol. III.)

*Daḷhadhamma*.—King of Benares. He had a she-elephant which used to carry written messages on her neck up to a distance of a 100 leagues and was very useful in battles. (No. 409, Vol. III.)

*Dasaratha*.—Mahārāja—a pious king of Benares. He had 16,000 queens, of whom the chief gave birth to two sons and one daughter. The eldest son was Rāma Paṇḍita, the second was prince Lakkhaṇa, and the daughter's name was Sītā Devī. On the death of the Aggamahisi he placed another queen in her position by whom he had a third son named Bharata. The king was highly pleased at the conduct of Bharata's mother and wanted to give her a boon. The boon prayed for was that Bharata should succeed to the throne in preference to his eldest brother Rāma Paṇḍita. The king was horrified at the proposal and thinking that the lives of his sons might not be safe within the kingdom owing to the machinations of the chief queen asked his sons to live outside his realm till his death, which, according to the calculation of the soothsayers, was sure to take place twelve years later. After the expiry of this period they were to come back to Benares and then Rāma should occupy the throne. The king's advice was acted upon and the loving sister Sītā followed the two brothers, Rāma and Lakkhaṇa, to the Himalayas. The king died nine years after. Bharata came to Rāma's hermitage with a view to induce him back to the kingdom. But Rāma,

who was determined to follow his father's command to the letter, would not return until the remaining three years had elapsed. Lakkhaṇa and Sītā, however, returned and for the next three years the government was carried on by the straw-made slippers offered by Rama to Bharata. On the completion of the twelfth year Rāma came back and began to rule with Sītā as the queen consort. (No. 461, Vol. IV.)

When Rāma went to Daṇḍaka Forest his mother won salvation for her son (verse p. 29, No. 513, F).

Another name of a legendary king of Benares called Janasandha, father of Adasa-mukha who afterwards became king (No. 257, Vol. II).

*Daṇḍaki*.—King of a country, the capital of which was the city of Kumbhavati. Kisavaccha, with the permission of his master, the renowned ascetic who lived in a hermitage on the banks of the Godāvārī, took up his abode in this city. The king once dismissed his courtesan but she was restored to his favour. Similarly the king dismissed his Purohita for some reason and he too was reinstated in his office. These two persons thought that they had got back their offices by insulting Kisavaccha, who was regarded as a veritable embodiment of ill luck (Kālakarṇi). Sometime after there was a disturbance on the frontier and the king went to fight it out. At the suggestion of the Purohita, on the eve of the expedition, he treated Kisavaccha with great contempt. He won victory but within seven days the whole kingdom of Daṇḍaki for a space of sixty yojanas was destroyed by frightful natural visitations. The ascetic had already predicted that the whole kingdom was to become 'no-kingdom' as a consequence of the god's anger. (Sakala raṭṭham araṭṭham bhavissati—p. 135, Vol. V, F.) The report of the destruction of the Daṇḍaki's kingdom spread throughout the length and breadth of India (tassa evam vinaṭṭhabhāvo sakala-Jambudīpe paññāyi). The three subordinate princes of Daṇḍaki were Kālīṅga, Aṭṭhaka and Bhīmaratha (Assaraṭṭhassa

antararatthādhipatino). It is not probable that he was a contemporary of Caṇḍapajjota.

“Daṇḍaki defiling Kisavaccha” was utterly destroyed (verse No. 530. Vol. V).

*Dudīpa*.—One of a group of 9 kings who could not attain salvation by giving gifts (verse No. 441, Vol. VI).

He lived a thousand years and had numberless chariots and soldiers at his command. But he became an ascetic at last. “And from his hermitage to heaven he past” (verse No. 543).

A Nāga king associated with the river Yamunā (No. 543, Vol. VI).

*Dhataratṭa*.—A king who in former times served Brāhmanas and Sramaṇas very assiduously and passed to Sakka’s heaven after death. Others of this righteous group of former kings are Vessamitta, Aṭṭhaka Yāmataggi, Usīnara and Sivi (Narada’s discourse, No. 544, Vol. VI).

*Esukārī*.—King of Benares. He had no son and wanted, by way of the fulfilment of a pledge, to make one of the four sons of his Purohita king, but all of them turned out ascetics. The king also embraced the religious life. Formerly he had driven out all ascetics from Benares in order to protect the young sons of the chaplain from the compelling influences of their teachings (No. 509, Vol. IV).

*Janasandha*.—A king of Benares. Also known as Dasaratha (See verse, p. 208, Cowell, Vol. II). Father of Adasamukha, who succeeded him (No. 257, Vol. II).

Son of king Brahmadatta of Benares by his chief consort. When he became king he built six almonries—4 at the 4 gates of the city, one in the middle of the city and the 6th at the royal gate where he daily distributed gifts to vast numbers of men. His fame spread in the whole of India (Jambudīpa). In the courtyard of his palace he used to give moral discourses (dhammam) to the citizens of Benares twice a month (No. 468, Vol. IV).

*Jayaddisa*.—Son of king Pañcāla, who reigned in the city of Uttarapañcāla in the kingdom of Kampilla by his chief queen (Kampillarattī) the Uttarapañcālanagare. Cowell translates this as follows:—in a city of the Northern Pañcālas in the kingdom of Kampilla—p. 11, Vol. V). This son was prince Alīnasattu who tamed an ogre (yakkha) who was none other than an elder brother of the king, nursed by an ogress (yakkhini) when infant. When the identity was revealed the king offered the throne to him, but he refused to accept it and became an ascetic. The king founded a village on a mountain in a neighbourhood of his brother's hermitage, where he excavated a big tank, 'prepared cultivated fields' and settled a thousand such families, thus making arrangements for alms-giving to the ascetics (tāpasānam bhikkhāhāram patthapesi). This village grew into the town of Cullakammasadamma. Another town which owed its origin to the king's reign was Mahākammasadammmam, commemorating the spot where the great transformation of the yakkha was effected (No. 513, Vol. V).

*Junha*.—son of Brahmadatta, studied in Takkasila, 'the fair city of Gandhara king.' Afterwards he gave amongst other things a hundred slave girls, 700 kine, more than a thousand ornaments of gold and two wives of equal birth to a Brahmin from Takkasilā (No. 456, Vol. IV).

*Janaka*.—King of Benares (No. 402, ).

*Kāliṅga*.—King of the country of Kāliṅga ruling in the city of Dantapura. Once in his kingdom a famine broke out consequent upon failure of crops which was due to drought. A critical situation arose and the famished people crowded at the king's gate for relief. Such famines were not unusual. Following the custom of former kings he made charities and observed penances for a period of seven days but all was in vain. It was supposed that if anyhow the elephant called Anjana Vasabha which belonged to the Kuru king Dhanañjaya could be brought to Dantapura, its presence alone would

cause a rainfall. Dhanañjaya gave it to the Brāhmin sent by Kāliṅga on this particular mission. Next, the rules of virtue which passed under the general name of Kurudhamma and which had been collected from the different persons of Indapatta were inscribed upon a golden plate and brought to Kāliṅga, where the king practised them. The result was seen in the increasing prosperity of the Kalinga country. Of the Kalinga kingdom, Capital Dantapura. He had two sons, named Mahā-kāliṅga and Culla-kāliṅga. On the death of father, Maha-kāliṅga became king. He wanted to have his younger brother arrested, but the latter fled to a forest and turned an ascetic. His son was called Kāliṅga. While in the forest, he has married to a Madda princess and on the death of Mahā-kāliṅga came back to Dantapura and took possession of the throne. The fortune-tellers had predicted that he would be an universal monarch (cakkavati) and indeed he became so. His Purohita, Kāliṅgabharadvāja, initiated him into the ten ceremonies, which a universal sovereign was required to perform (dasa cakkavattivattam). He offered worship at the circuit of the great Bodhi tree. (Mahābodhimāṇḍam.) (No. 479, Vol. III.)

A king, subordinate to Daṇḍaki. He went to the ascetic Sarabhaṅga and was converted, (No. 522).

*Kalābu.*—A king of Benares. On a certain occasion he came to the royal park, surrounded by a large number of dancers. There the nautch girls provided a musical entertainment. The king drank deep and fell asleep. The women then stopped their music and went to the Bodhisattva who was seated in a corner of the park. When the king awoke he was terribly angry to miss the girls. He came to the ascetic and on enquiry learnt that he preached the doctrine of patience. The king just to put his patience to a practical test killed him in a cold-blooded manner, and the ascetic died a martyr to his faith. As a consequence of this diabolical offence the king was 'wrapped up by a flame and drawn deep down into the earth. (No. 323, Vol. III.)



This story was known to kings Khujjavamana, Kāliṅga, Aṭṭhaka and Bhīmaratha, who alluded to it. (No. 522, Vol. V.)

*Karanda*.—King of Kāliṅga (in the city of Dantapura), who became an ascetic, a Paccekabuddha along with three other kings, viz., Naggaji of Kandahar, Nimi of Videha and Durmukha of Uttarapañcāla. They lived together as ascetics in the Nandamūla cave. (No. 408, Vol. III.)

*Kaṇḍari*.—A very handsome king of Benares. His wife was called Kinnarā and his chaplain was Pañcālacaṇḍa-Kinnarā. She carried on a detestable intrigue with a cripple and this the king came to know with the help of his priest. The king traversed all India and altogether a very bad impression was produced on his mind regarding the moral character of womenfolk. (No. 586, Vol. V.)

*Kaḷāra Janaka*.—He was Nimi's son and successor in the kingdom of Videha and with him closed the dynasty which had been founded by Makhadeva (No. 541, Vol. III.)

*Kosambika*.—Of the kingdom of Vamśa with capital at Kosambī. (No. 444, Vol. IV.)

*Kiki*.—King, flourished in the time of the Dasabala Kassapa. He had eight daughters—Uracchadā, Samanī, Samanā, Guttā, Bhikkhudāsika, Dhammā, Sudhammā, and Saṃghadāsī. (No. 547, Vol. VI.)

*Koravya*.—A king of the race of Yuddhiṭṭhila, reigning in the city of Indapatta in the kingdom of Kuru. He used to make gifts indiscriminately. Once he took counsel with minister Vidhura, his adviser 'in matters temporal and spiritual,' regarding persons who by reason of their exemplary character were alone deserved of royal largesses. V. exposed the greed, hypocrisy and commercialism and other vices which characterised the Brāhmins of his time, from which the Paccekabuddhas of Northern Himālaya were alone free. They were accordingly invited by the king to receive presents from him. (Dasa-Brāhmana Jātaka.)

He had a son by his chief wife called Sutasoma, who afterwards became king. (No. 537, Vol. V.)

*Kaṁsa*.—Son of Mahākāṁsa who reigned in Uttarāpatha in the city of Asitañjana in the Kaṁsa district (Kaṁsabhoge). After Mahākāṁsa's death, he succeeded to the throne and his younger brother Upakāṁsa became Viceroy. He had a sister called Devagabbhā and it was prophesied that her son would destroy the territory of Kaṁsa and with it the dynasty of Kaṁsa too. The sister was put into a tower to live a solitary life, attended only by a maidservant named Nandagopā and a servant called Andhakaveṇhu. Upasagara, a son of the deceased Mahāsāgara of North Madhurā, fled from his brother's kingdom to Kaṁsa where he was received with honour by the king at the recommendation of his brother Upakāṁsa. Devagabbhā and the new-comer fell in love with each other and meetings between them were secretly arranged by Nandagopā. She conceived and gave birth to a daughter who was given the name of Añjanā. Now the two brothers Kaṁsa and Upakāṁsa allotted to the pair an estate—a village (bhogagāma) named Govaḍḍhamāna where they began to live. In course of time ten sons were successively born to them, and they were brought up in secret by Nandagopā. The eldest of them was Vāsudeva, known also as Kanha and Kesava. The nine others were Baladeva, Candadeva, Suriyadeva, Aggi-deva, Varuṇa-deva, Ajjuna, Pajjuna, Ghata-paṇḍita and Amkura. 'In course of time they grew big and being very strong, and withal fierce and ferocious, they went about plundering, they went even so far as to plunder a present being conveyed to the king.' That they were really the sons of Devagabbhā became widely known and reached the ears of the king, who ordered them to fight with two famous wrestlers, viz., Cānura and Muṭṭhika, thinking of putting them to death when well under control. Baladeva, the second brother, quite easily killed the two wrestlers in the course of the match and Vāsudeva 'threw a

wheel which, lopped off the heads of ' the two giants, Kaṁsa, the king and his brother Upakaṁsa the Viceroy. The crowd which had gathered to witness the performance at once accepted Vāsudeva as their king. Thus the prophecy that Kaṁsa would die in the hands of Debagabbhā's son was fulfilled. (Ghata Jātaka, No. 454.)

Kaṁsa, a king of Benares (Verse p. 112, F, Vol. V; C, p. 61, Vol. V).

*Kālasena*.—King of Ayodhya (Ayodhya), was taken prisoner by the ten sons of Devagabbhā, Vāsudeva and others and the sovereignty of the country thereupon passed into their hands. (Ghata Jātaka, No. 454, Vol. IV.)

*Mallika*.—King of Kosala. Once two royal carriages, one conveying king Brahmadaṭṭa of Benares and the other king Mallika of Kosala, met at a certain spot in a road which was so small that it could not allow passage to more than one conveyance at a time. It was difficult for the two royal drivers to settle which of the carriages should pass first. Both of them were anxious for the honour and dignity of their respective masters. It fell out that both the kings were equally powerful and glorious. Both of them ruled over equally extensive kingdoms, each measuring 300 leagues in length and their resources were equally great. But there was one field where a significant comparison might be instituted between the two kings—it was that of general policy. The king of Kosala was 'rough to the rough' and 'mild with mildness' swayed, mastered 'the good by goodness,' and paid 'the bad with badness.' The king of Kasi, on the other hand, conquered wrath by mildness and mastered the bad with goodness. Judged from this standard, Kosala was inferior to Kasi. The Kosala king after this event tried to follow the example of Brahmadaṭṭa. (No. 151, Rajovada Jātaka, Vol. II.)<sup>1</sup>

<sup>1</sup> Daḷhaṁ daḷhassa khipati Malliko mudunā mudun,  
Sādhum pi sādhumā jeti asādhum pi asādhunā.  
Etādiso ayaṁ rājā.....

*Mahapiṅgala*.—A king of Benares, very cruel and oppressive to all classes of his subjects, who suffered grievously owing to his unjust rule. At his death the people were overjoyed and indulged in all sorts of merrymaking as they had got rid of a tyrant. His son was the Bodhisattva who became king on his death. (No. 240, Vol. II; for the genealogy of this line from Mahasammata down to Māndhātā, see No. 258, Vol. II.)

*Māndhātā*.—A great king. (For his predecessors, see the note 'Mahasammata.') Sakka divided the sovereignty of the Heaven of the Thirty-three between himself and Māndhātā. After a time he wanted to exclude Sakka. He fell down from heaven and died. (No. 258, Vol. II—.)

His successors were, Varamāndhātā, Cara and Upacara—the last ruled over the kingdom of Ceti. (No. 422, Vol. III.)

*Mahāpātaka*.—A king of Benares. He had his son Dhammapāla, seven months old, executed for a slight offence on the part of its mother, Canda. The mother died instantly and the king went to hell. (No. 358, Vol. III.)

*Maddava*.—A king of Benares. He gave his wife to the young son of the royal chaplain, asking him to live with her for seven days and to return her on the eighth day. But they fled to another kingdom and no trace of them was discoverable anywhere. The king was gradually reconciled to his fate by his two wise councillors (paṇḍitamacce), Ayura and Pukkusa. In his country swords made in *Dasaṇṇa* were in use amongst the people. M. is constantly addressed as a Māgadha (Janahi Māgadha) by the two councillors. (No. 401, Vol. III.)

*Mahākamsa*.—A king who reigned in the city of Asitanjaha in the district of Kamsa, situated in Uttarāpatha. He had two sons named Kamsa and Upakamsa and a daughter Devagabbhā by name. After his death the throne was occupied by the elder son Kamsa and Upakamsa was appointed to the Viceroyalty (Uparāja). (No. 454, Vol. IV—)

*Mahāpaṇāda*.—King of Mithila. Son of Suruci. (See Verse No. 264.)

*Mahāsilava*.—King of Kasi, deprived of his kingdom by a monarch of Kosala. (No. 51.)

*Manoja*.—A king reigning in Benares when it was called Brahmavaddhana. With the help of the miraculous powers of an ascetic called Nandapaṇḍita, who called him the foremost king in all India (sakala-Jambudīpe Manojam aggarajanam), received the submission of over a hundred kings, including those of Anga, Magadha and Kosala. Avanti and Assaka were included in his dominions. (See No. 532, p. 315, F.) He returned to his capital Brahmavaddhana with the host of kings who had submitted to his overlordship. He and the other kings were instructed in the law by Sonapaṇḍita, brother of Nandapaṇḍita. (No. 532, Vol. V.)

*Makhadeva*.—King of Videha, reigning in the city of Mithila. He instructed his barber that the moment he would find a grey hair on his head he was to bring it to the notice of his royal master. This occurred after he had reigned for 84 thousand years whereupon he left his kingdom and assumed the garb of an ascetic. Afterwards he went to the Brahma world. (Makhadeva Jātaka, 9, Vol. I.)

He was again born as king Nimi in Videha. The last of the line, of which king Makhādeva was the first, was Kaṭara Janaka. (Nimi Jātaka, 541, Vol. VI.)

*Mahājanaka*.—He reigned in Mithila in the kingdom of Videha. He had two sons Ariṭṭhajanaka and Polajanaka who had respectively filled the posts of Viceroy and Commander-in-chief. After his death Ariṭṭha became king as usual, but he was killed by his brother who enjoyed the throne till his death. Ariṭṭha's posthumous son was Mahājanaka who was brought up by her mother in the house of a Brāhmin teacher at Kālacampā. After finishing his education, Mahājanaka, a young man of 16, sailed for Suvannabhūmi on a commercial enterprise, in order to get sufficient

money wherewith to recover the kingdom of Videha. The ship perished in the middle of the ocean. He managed to reach Mithila, where the throne had been lying vacant since the death of Polajanaka, his uncle, who had left a marriageable daughter and no son. Mahājanaka was now married to the princess and raised to the throne. He was a very popular king but acting under a great religious impulse he renounced the world, notwithstanding the most earnest entreaties of his devoted wife, Sivala-devi, and of the whole people. The king was exhorted to lead a virtuous life prominently by two ascetics—Nārada-Kassapa and Migajina. After his retirement prince Dīghāvu, his son, became king of Videha. (No. 39, Vol. VI.)

*Mucalinda*.—One out of a group of nine kings who reigned in ancient times, and were noted for their great gift-giving activities, but could not pass beyond the Peta world. (Verse, p. 55, Cowell, 'Mujalind'; verse, p. 99, Vol. VI, Jātaka No. 543). An ancient king, who feasted the Brahmins very well, often performed sacrifices in honour of Fire and at last became a god Bhrūidatta.

*Nimi*.—King of Videha, Makhadeva, reborn as such. He united the scattered family (*ossakkamānam attano vamsam ghatetva*, p. 139, Vol. I) of his forefather Makhādeva and afterwards adopted the life of an ascetic. (Makhādeva Jātaka, No. 9, Vol. I.)

After 82 thousand princes, belonging to the line of Makhadeva, had successively ruled, Nimi appeared in the world. He visited the hell and the mansions of various gods in the company of Mātali, the charioteer of Sakka, to see with his own eyes how men fared differently according to their own actions in the world. When his hair began to be gray, he renounced the world, making his son Kalāra-Janaka king in his place, and devoting his own time and energies to the development of his moral faculties. (Nimi Jātaka, No. 541, Vol. VI.)

Nimi, king of Videha, turned an ascetic and lived in the same cave with three other kings *viz.*, Naggaji of Gandhāra, Dummukha of Kampilla, and Karaṇḍu of Kalinga who had also become an ascetic. (Verse Kampilla, Karaṇḍatāka, No. 408, Vol. III.)

*Naggaji*.—He ruled over two kingdoms Kāshmir and Gandhāra from the city of Takkaśila. He says—“*ahaṃ pana Kasmīra-Gandhāresu dvīsu rajjesu raṭṭhavasino Vicāremi*) Naggaji of the Gandhāras (Gandhārānaṅca Naggaji-verse, p. 381, F. Vol. III.)

*Nārada*.—King of Videha in Mithila. He was the seventh in descent from Sādhina between whom and the present king 700 years had elapsed. (No. 495, Vol. IV.)

*Nalikira* (King ?)—Having caused ascetics to be devoured by dogs, perished. He fell into the jaws of dogs in hell (Sarabhaṅga Jātaka).

*Okkāka*.—Ruled over the kingdom Malla from his capital at Kusāvati (Kusāvati rājadhaniyaṃ.) He had 16 thousand queens, the chief was Sīlavati. For a long time he had no son and the people became anxious lest the kingdom should be seized and destroyed by a foreigner. The queen was exposed to the people but her chastity was guarded by Sakka. She gave birth to two sons, the elder was Prince Kusa, who was married to Pabhāvatī, daughter of a Madda king, who ruled at Sakala. He was anointed king and Okkāka ceased to rule. (No. 531, Kusa Jātaka.)

*Pasenadi*.—King Brahmadatta of Benares related his dreams in just the same way as Pasenadi had described them. (Mahasupina Jātaka, No. 77, Vol. I.)

*Pajaka*.—King of a country which comprised the town of Lambacūlaka. (Indriya Jātaka, No. 423, Vol. III. See ‘Caṇḍapajjota.’)

*Piliyakkha*.—King of Benares. Having entrusted the kingdom to his mother, he went to the region of the Himalaya on a hunting excursion. There on the banks of

the river Migasammata he fatally wounded a young boy named Sama, son of a hunter. The King became so penitent and aggrieved that he offered to nurse the parents of the boy like a slave. Sama in the end was restored to life. (Sama Jātaka, No. 540, Vol. VI.)

*Reṇu.*—He rained in the city of Uttarapañcāla in the kingdom of Kuru (Kuraraṭṭhe Uttarapañcālanagare). Once a rebellion broke out in the frontier (paccanta kuppi). The king proceeded to suppress it, leaving his only son Prince Somanassa in charge of a deceitful ascetic. On his return the ascetic brought a false charge against the prince's character. The king believed him and the boy was ordered to be executed. He, however, soon discovered that the charge had no foundation in fact and that the whole thing had been fabricated by the ascetic to further his own wicked ends. The son was awfully disgusted with the king's lack of justice and went away an ascetic. (No. 505, Vol. V.)

*Suruci.*—King of Videha, reigned in the city of Mithila. He had a son who was also called Suruci. The son of the second Suruci was Mahāpaṇāda. (Mahāpaṇāda Jātaka, No. 264.)

Suruci of Mithila,—whose son and grandson also bore the same name. The son of Suruci I, while a prince, contracted friendship with Brahmadaṭṭa of Benares at Takkaṣiḷa where they had both gone for education. Later on, when Suruci was seated on the throne of Videha and Brahmadaṭṭa on that of Benares, this friendship of early days was strengthened by a matrimonial alliance. Prince Suruci, (*i.e.*, Suruci No. III) son of the reigning king Suruci II, married Sumedhā, princess of Benares. Out of this wedlock was born Mahāpaṇāda and there was a great jubilation at his birth in both the kingdoms. (Suruci Jātaka, No. 489, Vol. IV.)

*Senaka.*—Of Benares (Kharaputta Jātaka, No. 386, Vol. III.)



*Sabdadatta*.—Of Benares, which was known as Ramma city (Rammanagaram nāma ahosi). His eldest son Yuvañjaya was given the post of Viceroy (Uparajjam adāsi). Yuvanajaya and his younger brother Prince Yudhitthila renounced the world with the consent of the King. (Yuvanajaya Jātaka, No. 460, Vol. IV.)

*Samvara*.—Prince, the youngest son of Brahmadata of Benares. On completion of his education he was asked to choose a province (Tuyham janapadam vārehiti), but at the advice of his teacher, who was a minister, he did not leave the city but chose the old park. He gradually increased his influence and popularity amongst all classes of the subjects till at last though youngest, he was elected to the throne by the ministers on the death of Brahmadata, whose eldest son was Prince Uposatta. The 99 brothers now joined in an attack against Mahārāja Samvara, but they ceased to be hostile when he divided the late King's wealth into a hundred shares and made over 99 shares to the brothers. He ruled wisely and righteously and the Bodhisattva, his former teacher, was his guiding angel throughout. (Samvara Jātaka, No. 462, Vol. IV.)

*Sādhina*.—King of Videha. He was a very pious king and so great was his merit that Sakka brought him to his heaven, where he lived for 700 years. Then he was sent back to the world of men. In Videha, the reigning King was Nārada, 7th in descent from him. The throne was offered to Sādhina but he refused. For 7 days he made charities and on the 7th day he died to be born in the heaven of the Thirty-three. (Sādhina Jātaka, No. 494.)

*Sakula*.—He ruled in the city of Sakula in the kingdom of Mahimsaka. Near the city was a lotus-lake called Manusiya (Manusiyo nama padumasaro ahosi). It appears that Mount Cittakūta was not far from it. (No. 533.)

*Samyama* (or Seyya—Vol. V, p. 345).—King of Benares. His chief consort was Khemā who wanted to have some

geese from the Cittakūṭa mountain. A fowler was appointed to catch some for the queen. Ultimately, the King realised the wickedness of slaughter and set them free. (Mahā-haṃsa Jātaka, No. 534.)

*Sāgara*.—Belonging to the group of 9 kings. See ‘Dudīpa.’ (Nimi Jātaka, No. 541, Vol. VI.)

“Sagara all the earth in triumph crost,  
And raised a golden sacrificial host,  
None worshipped fire more zealously than he  
And he too rose to be a deity.”

*Verse, Bhūridatta Jātaka, No. 543.*

Son of Mahāsāgara and king of upper Ādhura. His brother Upasāgara fled from his kingdom. (Ghata Jātaka, No. 454.)

*Sela*.—One of the group of 9 kings. See ‘Dudīpa.’ (Verse, Nimi Jātaka, No. 541.)

*Sāma*.—A king of Benares. He had a state horse called Paṇḍava. A lame man called Giridanta was his groom. He was dismissed and an efficient man was appointed. (No. 184, Vol. II.)

*Samkhapāla*.—Of the kingdom of Ekabala. A contemporary of Culani Brahmadatta of Kampilla. He was reported to have been engaged in collecting arms and assembling an army. His movements were watched over by a Videha king. (The Maha-Umagga Jātaka, No. 546.)

*Sañjaya*.—Son of a king who reigned in the city of Jetuttara in the kingdom of Sivi. On his attaining maturity he was married to Phusatī, princess of Madda, and made king by his father Sivi. The son of Phusatī and Sañjaya was Vessantara who was banished from the kingdom by the people of Sivi for having given an elephant to the Brahmins sent by a king of Kalinga. Afterwards he returned to the Sivi country. (Vessantara Jātaka, No. 547, Vol. VI.)

*Susīma*.—King of Benares. When the season for holding elephant festival came, the Brahmins in a body came to him and told him that as the royal chaplain’s young son was not

versed in the three vedas or in the elephant lore, permission should be accorded to them to conduct the festival. "For seven generations," thought the wife of Chaplain, "we have managed the elephant's festivals from father to son. The old custom will pass from us." The lad demanded his right and it was granted. (Susīma Jātaka, No. 163, Vol. II.)

*Tamba*.—King of Benares. His wife was Sussondi, a woman of exceeding beauty. She was abducted by the king of the Nāga island Seruma, who used to come to Benares to play dice with him. The king sent his minstrel Sagga to search for her in every clime and to bring information regarding her whereabouts. Sagga came to Bharukaccha where some merchants were about to set for Suvannabhūmi. He was allowed a free passage in exchange for music with which he was to entertain the merchants on board the ship. He reached the island of Seruma and discovered the queen. The Nāga king on coming to know of her misconduct with the minstrel, returned her in disgust to Tamba. (No. 360, Vol. III.....)

*Udayabhadda*.—Bodhisattva, born as prince of Benares, son of Brahmadatta. At his father's death, he gained the kingdom but divided it half and half between himself and a poor water-carrier—a remarkably joyous fellow, for whom he took a strange fascination. Afterwards, this man felt inclined to kill Udayabhadda in order to be the sole sovereign. But he returned his half of the kingdom to Udaya, just to get himself away from the evil influence of passion which was leading him to such an ungrateful act. Addressed as Brahmadatta which was the name of the family of Udaya Rāja (*rājanam kulanāmena ālaptivā*, Gangamāla-jātaka, No. 421, Vol. II). Bodhisattva, son of a king of Kāsi, who ruled in the city of Surundha in the kingdom of Kāsi, by his chief queen married his own sister Udayabhaddā, who was a daughter of the king by another queen. After marriage he became king and Udayabhaddā the chief consort. They

abstained from sexual enjoyment. When he died there was none who could succeed him to the throne. Udayabhaddā conducted the administration with the help of the ministers. (Udayabhaddāya eva āṇā pavatti, amaccā rajjam anusāsimsu, p. 105, Vol. IV, F.) Afterwards she renounced the world as an ascetic, and the sovereignty was now vested in the courtiers (amacce rajjam paṭicchāpetvā, p. 113, Vol. IV, F.). (No. 458, Vol. IV.)

*Usīnara*.—King Sakka assumed the form of a hunter and with Mātali, made into a terrible hound, came to his kingdom to punish the irreligious and restore religion. He wanted food for his hungry hound, but its hunger was not appeased, and Sakka would let the hound leap forth and devour all those who did the deeds of enemies. But as all the multitude was terror-struck, he held in the hound by the leash—"Sakka then revealed his divine character, declared the law and strengthened the waning power of religion '(No. 469, Vol. IV).'

Waiting diligently on Brahmins and Samans, he went to Sakka's heaven. (Mahanāradakassapa Jātaka, No. 544, Vol. VI.)

One of a group of ancient kings. (Verse, Nimi Jātaka, No. 541, Vol. VI.)

*Uggasena*.—King of Benares, who enjoyed the hospitality of the Nāga king Campeyya. With the latter's help a Magadhan king, who had lost his kingdom, came to rule over the two realms of Aṅga and Magadha. (No. 506, Vol. IV.)

*Vissasena*.—A king of Benares (No. 268, Vol. II). Cf. Āramadusaka Jātaka, No. 46, Vol. I, where the same story occurs, but the king's name is given as Brhmadatta.

*Vaṅka*.—Ruled in Sāvattthī. A minister of king Ghata, of Kasi, was banished from the country and took service with him. At his instigation Vaṅka attacked the kingdom of Kasi, conquered it and took its King Ghata prisoner. He was, however, set free and Kāsi was restored to him. (No. 355, Vol. IV.)

*Vasavattin.*—King—His son Ekarāja reigned in Benares when it was called Pupphavatī. (No. 542, Vol. VI.)

*Vessamitta.*—A righteous king who in former times waited diligently on Brahmins and Samanas and went to Sakka's heaven. (No. 544, Vol. VI.)

*Vāsudeva.*—The eldest son of Upasāgara, brother of king Sagara of North Mathura and Devagabbha, sister of king Kaṁsa. When Devagabbha was born, a prediction was made that a son born of her would destroy the Kaṁsa line together with the country (etissā kucchiyaṃ nibbattaputto Kaṁsa bhogaṃ kaṁsavamaṁsaṃ nāsessatīti vyākariṃsu). Her father king Mahākāṁsa could not put her to death out of affection, and when Kaṁsa came to the throne, he also desisted from killing her for fear of a general outcry of condemnation. So she was thrown into a solitary tower which was built for the purpose. She had two attendants—Nandagopā and her husband Andhakaveṇhu. Then came the gallant prince Upasāgara from North Mathura, his brother's kingdom, where he had been engaged in a sexual misadventure. He paid stealthy visits to Devagabbhā in her solitary prison, the barriers of which were pierced by the shafts of love. She became enceinte and when cross-examined by her brothers was compelled to relate the whole story of her secret love-making. The brothers thought that if their sister gave birth to a son, they would at once kill him, rather than put her sister to death, and that if a daughter were born, she would be spared. Coming to this decision, they married their sister to Upasāgara, the discredited young prince from Mathura. This time a daughter was born to her, and she was named Anjana Devi. Some time after she brought forth a male child. On the same day was born a daughter to Nandagopā. The latter passed as Devagabbhā's daughter and the former as the son of Nanda. In this way all the sons of Devagabbhā, 10 in number, Vāsudeva, Baladeva, Candadeva, Suriyādeva, Aggideva, Varuṇadeva, Ajjana, Pajjuna, Ghata-Pāṇḍita,

Āṅkura,—were brought up in the house of Nandagopā as her sons and the ten daughters of Nandagopā similarly passed as the daughters of Devagabbha. The ten brothers known as the sons of Andhakaveṇḥu (Andhakaveṇḥudāsaputtā dasa bhātikā ceṭakā, p. 81, Vol. IV), grew up very strong, and full of youthfulness which knew no mercy to others, they became notorious plunderers. The king came to know of their plundering raids in the country from the people. Their real identity was disclosed and Kamsa thought of putting them to death by inviting them to participate in a wrestling match. Baladeva, the second brother, easily put the two wrestlers, Mutthika and Kalamatti, to death and Vāsudeva, the eldest, killed Kamsa and his brother by throwing a wheel (cakkam khipi). The crowds terrified, fell at his feet, and besought him to be their protector (Mahājano bhītatasito 'avassayo no hothā," 'ti tesam pādesu patitvā nipajji—p. 82, Vol. IV, F.). Next the ten brothers launched into a career of conquest. First of all they took Kālasena, king of Ayojjha, prisoner, (the city of Ayojjha, the seat of king Kālasena (Kālasenarañño nivāsam Ayojjhanagaram, p. 82, Vol. IV), and made themselves masters of the country. From Ayodhyā they came to Dvārāvātī. On one side of this city there was a mountain and on another the sea. There were great natural difficulties in conquering a city which stood so near the sea. Failing to capture it they came to Kaṇha-dīpāyana, a sage and a friend of Mandavya (No. 454, Vol. IV), for advice. They next posted four iron pillars at the 4 gates of the city and clamped them by chains of iron, which enabled them to master the physical obstacles which had so long baffled their attempt. They entered the city and killed its king and took the country (Dasa bhātikā tato nagaram pavisitvā rājānam māretvā rajjam gaṇhimsu, p. 83, Vol. IV, F.). After this they conquered three and sixty thousand cities in the whole of India, killing all the kings by means of the Wheel (Sabbe rājāno cakkena jīvitakkhayaṃ pāpetvā) and making their own residence at

Dvārāvati where they divided their kingdom into ten shares. At the suggestion of Aṅkura his share was conferred upon lady Añjanā. Aṅkura 'embarked in trade' (Aṅkura pana vāṇijjaṃ akāsi, p. 84) and was exempted from tax (Sumkam) in return for the sacrifice he had made. In course of time their parents died. At the death of a beloved son, Vāsudeva Mahārāja became overwhelmed with grief and gave himself up to mourning, neglecting all his royal business. Ghata-panḍita, Vāsudeva's brother, wanted 'the hare within the moon' (Candato sasam icchāmi, p. 55). 'This was absurd,' pointed out Vāsudeva. Ghata, the wise, showed that his 'mourning was also futile.' Thus consoled by Prince Ghata, king Vāsudeva ruled righteously over the kingdom. Long after this, the sons of the ten brothers visited Kaṇhadīpāyana of divine insight (dibbacakkhuka). "They procured a young lad, and drest him up, and by binding a pillow about his belly made it appear as though he were with child." "When, Sir, will this woman be delivered?" The sage replied, "This man on the 7th day from now will bring forth a knot of acacia wood (Khadiraghaṭṭikam vijāyisati). With that he will destroy the line of Vāsudeva." "Ah, false ascetic!" said they, "a man can never bring forth a child" and they killed the sage at once. Sometime after the kings proposed to enjoy a sport in the water. A great pavilion was built for the occasion; there they came, ate and drank. Now they grew quarrelsome and began to fight, dividing themselves into two groups (didhā bhijjivā). At last one of them picked a leaf from the eraka plant, 'which even as he plucked it became a club of acacia wood in his hand.' With this he beat many people. Then the others plucked also, and the things as they took them became clubs, and with them they cudgelled one another until they were killed. All of them perished with the exception of Vāsudeva, Baladeva and the lady Añjanā, who fled in a chariot with a purohita, while the fight was proceeding. In the forest of Kalamattika Baladeva

was killed by Muttika, the wrestler who had been born again as a yakkha. Vāsudeva with his sister and the chaplain came to a frontier village at sunrise. He lay down in a forest sending his sister and the priest into the village to get some food cooked and bring it to him. A hunter named Jarā was passing by the way. He took him to be a pig and threw a spear, which pierced his feet. The wound proved fatal. Before breathing his last, he taught lady Añjanā a science, with which he was to earn her livelihood. "Thus excepting the lady Añjanā they perished every one, it is said." (Ghata Jātaka, No. 454, Vol. IV—). Rohineyya was a minister in Dvārāvati, who carried a message to king Vāsudeva, Vāsudeva was also known by the name of Kaṇha (see page 84, Vol. IV), and Kesava (p. 85).

... One of the brothers of the Kaṇhagaṇa clan, the eldest of them, married Jambāvati of the Caṇḍāla caste and made her the chief consort. Their son was Sivi, who ruled in Dvārāvati after his father's death (see story told by a parrot-Mahā-ummagga Jātaka, No. 546, Vol. VI).

*Yava*.—Son of Brahmadata, afterwards king of Benares. While a student his teacher knew by his power of divination that danger would befall him through his son. So he gave him three stanzas to be repeated on three occasions. On the completion of his education he was appointed Viceroy and then as usual on the death of his father became king. He had an only son, who, when a youth of 16, became impatient of the king and thought of obtaining the throne by putting him to death. The son made three successive attempts to kill his father, but each time as he was about to carry out his purpose, his father repeated one of the three stanzas suited to the occasion, which clearly indicated that his motive had been detected by the king. Baffled in the third attempt, the prince fell at his father's feet and he was forgiven. "By and bye on the death of the king the young prince was established on the throne" (No. 373, Vol. III).



*Yasapāṇi*.—A king of Benares. His family-priest was called Dhammaddhaja. The name of his commander-in-chief (Senāpati) was Kālaka who used to take bribes in deciding law-suits. Once this was detected by Dhammaddhaja who was henceforward appointed to sit in judgment instead by the Mahārāja (tumhe va aṭṭam vinicchinnatha, p. 187, Vol. II, F). The commander-in-chief, deprived of his bribes, became jealous of Dhammaddhaja, and poisoned the ear of the king by telling him that he was aiming at the throne. The king grew suspicious but the paṇḍit performed certain miracles which restored him to the king's confidence. But so enraged were the people at Kālaka's wickedness, that they put the commander-in-chief to death. (Dhammaddha Jajātaka, No. 220, Vol. II.)

## ADDENDA

The MS. of this paper was sent to the University Press nearly two years ago. As certain articles, which have since been published, could not be noticed in their proper places, a reference may be made to them in this supplementary note.

(1) 'Jātaka Gāthās and Jātaka Commentary,' by Prof. Winternitz (*Historical Quarterly*, March, 1928, pp. 1-14). The author discusses the question whether originally a verse-Jātaka existed as an independent work, to which later modifications were introduced, culminating in the production of the Jātaka Aṭṭhakathā. This examination was necessary in view of the findings of Dr. Weller, based on a critical study of the Phyrae and two other MSS. from Mandalay of Jātaka verses. The researches of Dr. Weller, as admitted by Prof. Winternitz himself, have thrown considerable doubt on the existence of a work consisting solely of verses, in which the Jātaka is supposed to have been preserved in its original form. 'Dr. Weller ought not to have doubted that a verse Jātaka ever existed at all,' although, 'it must be admitted that our hope and belief that the original verse-Jātaka is still extant in MSS., has been shaken by Dr. Weller's arguments' (p. 6). The learned scholar does not controvert the general opinion that the Jātaka commentary in its prose parts 'contains old traditions which in many cases may go back to the same early period as the Gāthās.' His conclusions may be summed up as follows—(1) on the whole the Jātakas have a much stronger claim to be regarded as canonical than the prose of the Jātakas, (2) the prose portions were 'more exposed to changes and enlargements,' (3) the language of the

Gāthās is more archaic than that of the prose, (4) several literary types are represented in the Jātaka collection. In this connection Oldenberg's 'Akhyāna-theory' has been particularly criticised. A critical edition of the Jātaka-verses from the four extant MSS. (three of which have been already noted, the fourth being the one preserved in the Academy of Leningrad) is a desideratum.

(2-3) Two remarkable papers by Mr. Gokuldas De, M.A., Lecturer in the Department of Pali, Calcutta University, both published in the Calcutta Review — viz., *Original Nature of Jātakas* (Jan., 1930, pp. 78-97); *Bhārhut Jātakas in a New Light* (1929, pp. 246-64). Mr. De's main object is to prove, to quote his own words, that 'a Jātaka originally consisted of a verse or verses...generally with a moral understood with the help of a prose narration which for the most part remained implicit rather than explicit, changing according to circumstances.' To prove his thesis, he relies mainly on the evidence, supplied by the Dhammapada Aṭṭhakathā. The propriety, however, of ascertaining the original nature of the Jātakas from a work believed to be as old as the 5th century A.D., which cites only 54 Jātakas, may be questioned by over-critical scholars. His observations will be mostly useful to those interested in the development of the Buddhist doctrines, specially of the Bodhisattva idea. But even if all the features, supposed to be of later origin, are eliminated from Fausböll's texts, the story-part in each Jātaka including the prose, remains practically in tact. It is to be decided precisely how much of this portion should be used for historical purposes. It cannot be urged without sufficient data that at the time of the final redaction all sorts of novel features were introduced, thoroughly transforming the character of the original work. The stories are represented to have been used by the Buddha for illustrating his own teachings, and apparently this position has not been rendered absolutely impossible from the historical standpoint by incorporating

legends that grew up in later times. In this respect they present an obvious contrast to the Purāṇas which while professing to discourse on the future, in reality concern themselves with the past. Leaving aside doctrinal matters in the Jātakas, the picture of ancient society depicted therein, seems to be a homogeneous one. This does not preclude the idea of old verses having been mixed up with new and the prose considerably enlarged, but the spirit of the old narrative was not sacrificed to novelty, and the literary embellishments, if introduced, did not apparently tend to produce an ill-assorted combination of things, belonging to different ages, as found in many other works.

Regarding geographical materials, contained in the Jātakas, of which a short abstract will be found in Chap. II, we take this opportunity to refer to two important publications, viz., (1) A Note on Sūrpāraka, by Jarl Charpentier which appears in J.R.A.S., 1927 (pp. 111-15) and (2) the Chapter on Paloura-Dantapura in Dr. P. C. Bagchi's Pre-Aryan and Pre-Dravidian in India (published by Calcutta University), Sopara, 'at one time the capital of Aparāntaka,' was undoubtedly a place of considerable importance in the 3rd century B.C. as a fragment of Asoka's Rock-Edicts has been found here. There is no mention of it in the later vedic literature and this may well lead to the inference that 'it rose to importance and fame sometime during the later half of the pre-Christian millenium.' Prof. Charpentier derives the name 'Sūrpāraka' from Sūrpa—'a Winnow, a winnowing basket,' in which sense it occurs in the later vedic literature and Paṇini's grammar. Tradition, embodied in the Mahābhārata, the Sahyādrīkhaṇḍa, etc., connect Sūrpāraka with Paraśurāma. Some early European authors, especially Father Jacob Francis, have also repeated the legend ascribing the origin of the place to the same mythical hero. 'The story of Paraśurāma's Sūrpa,' concludes Prof. Charpentier, 'must be one of considerable age, for the name Sūrpāraka must

certainly date from at least some centuries B.C.' Charpentier's investigations make it amply clear that the criterion for determining the historical value and relative ages of our literary materials has not yet been definitely fixed. It is still in a process of evolution.

The high antiquity of Dantapura (p. 43, f.n. 2) in Kalinga, another place mentioned in the Jātakas, is not unsupported by facts, gleaned from various sources. It was also called Dantakura and there are traditions connecting it with the tooth-relic of the Buddha or the glories of king Dantavakra. The Purla Plates of Indravarman (Ep. Ind., XIV, p. 361), dated in the [Ganga] year 149 refer to Dantapura as the place where the king resided. Prof. Sylvain Lévi (J.A.S., 1925, pp. 46-57—Notes Indiennes) identifies it with the Paloura of Ptolemy, the Dandagulla of Pliny, situated in the neighbourhood of Chicacole and Kalingapatam (p. 171).

My esteemed friend and colleague Dr. P. C. Bagchi has kindly drawn my attention to a passage in the Suvarṇaprabhā (Buddh. Text Society, Calcutta, Ch. XIII, pp. 56-63) where the Buddha is said to have held the view that the king is the *devaputra*, that the duty of the subjects is to respect him and that of the king to govern according to the law (*dharmēṇa śāsyaṭe rāshṭram*). In this connection I beg to refer my readers to p. 44 of this book where some political theories and methods, professed to be those of the Buddha, have been discussed.

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# THE MAHĀRĀṢṬRA-PURĀṆA

By

TAMONASH CHANDRA DASGUPTA, M.A.

FIRST CANTO.

*Translation.*

Worldly men do not take pleasure in the contemplation of Rādhā and Krishna but indulge in sordid pastime with women not bound in wedlock plunging themselves in perpetual debauchery with them. They do not know that some unexpected calamity which they rightly deserve, may befall them at any moment. They always think ill of and scandalise others, and are incapable of thinking of anything noble. The mother Earth not being able to endure the burden of these unholy deeds felt distressed and went to the great god Brahmā, explained to him the object of her visit, and said :—

মহারাষ্ট্র-পুরাণ

প্রথম কাণ্ড

ত্ৰীত্ৰীকৃষ্ণ

রাধাকৃষ্ণ নাহি ভজে পাপমতি হইঞা ।

রাত্রদিন কড়া<sup>২</sup> করে পরত্নী লইঞা ॥

<sup>1</sup> There is no writing on the obverse of this folio.

<sup>২</sup> কড়া = ক্রীড়া ।

“This burden has become too much for me to bear any longer, due, as I have explained, to sins committed by wicked men. How long am I to suffer this ?”

Brahmā replied :—

“Don’t get anxious. Be composed.” He then led her to the great ascetic god Siva and offered him the following prayer :—

“O Siva, you are the great Creator, the great Destroyer, as well as the great Sustainer of the Universe. Everything we see around in this phenomenal world, whether moving or static, are but the manifestations of thyself and you are also the Noumenon. You are the Father, the Mother, and the only Friend. This Earth is your creation.”

শ্রীশ্কার<sup>১</sup> কৌতুকে জিব থাকে সর্ববক্ষণ ।  
 হেন নাহি জানে সেই কি হবে কখন ॥  
 পরহিংসা পরনিন্দা করে রাত্র দিনে ।  
 এই সকল কথা বিনে অণু নাহি মনে ॥  
 এত জদি পাপ হইল পৃথিবী উপরে ।  
 পাপের কারণে পৃথি ভার সহিতে নাৱে ॥  
 তবে পৃথি চলি গেলা ব্রহ্মার গোচর ।  
 কহিতে লাগীলা পৃথি ব্রহ্মা বরাবর ॥  
 পাপের কারণে প্রভু পৃথি হইল ভারি ।  
 কত ব্যাম পাব আমি ভার সহিতে নাৱি ॥  
 এতেক স্ননিঞ ব্রহ্মা বোলিছে বচন ।  
 ব্যাকুল না হইয় তুমি ধৰ্য্য কর মন ॥  
 পৃথী সঙ্গে করি ব্রহ্মা গেলা শীৱ স্তানে ।  
 কহিতে লাগিলা ব্রহ্মা স্তুতি বচনে ॥

<sup>১</sup> শ্রীশ্কার = শৃঙ্গার ।

After Brahmā had ceased to speak, the great god replied with a smile :—

“Why are you praising me thus? Explain your reason.”

Brahmā also smiled and said :—

“The Earth cannot bear the burden of sin any longer. All the living beings are addicted to sin. So, do please destroy the sinners and lighten the burden of the Earth.”

Siva consenting said :—

“All right. I shall do so by sending a messenger to the Earth on this errand.”

Brahmā now returned to his abode accompanied by the mother Earth who soon after took leave of the former and returned to her place in a thoughtful mood. When the Earth and Brahmā had gone, Siva was absorbed

তুমি কর্তা তুমি হর্তা তুমি নারায়ণ ।  
 স্থাবর জঙ্গম তুমি তুমি নিরঞ্জন ॥  
 তুমি মাতা তুমি পীতা তুমি বন্ধুজন ।  
 এ মহিমগুল প্রভু তোমার শ্রিজন <sup>১</sup> ॥  
 এতেক বিনয় কৈলা ব্রহ্মাবর ।  
 হাসিয়া তাহারে তবে বলিলা সঙ্কর ॥  
 এতেক মিনতি কর কিসের কারণ ।  
 বোল দেখি স্ননি আমি তাহার বিবরণ ॥  
 তবে ব্রহ্মা বলিলেন হাসি ত্রিলোচনে ।  
 পৃথী ভার সহিতে নারে পাপের কারণে ॥  
 পাপমতি হইল জিব করে ছুরাচার ।  
 পাপীষ্ট মারিআ প্রভু ছর কর ভার ॥  
 কহিতে লাগিলা হর এতেক স্ননিঞা ।  
 পাপিষ্ট মারিছি ছুত পাঠাইঞা ॥



again in his wonted meditation. It was only sometime after, that he remembered his promise to Brahmā. To Nandi (his attendant) he said :—

“O Nandi, immediately start for the South-town where there is a king on Earth named Sāhu. Go and enter his body. The Earth is overburdened with sin. Send out the messengers of Death so that the sinners may die.” Nandi hastily left for the court of Sāhurāja at the behest of his Lord, entered the rājā's person, and immediately under the influence of Nandi, Sāhurāja began to address Raghurāja (Raghuji Bhonslā) as follows :—

এতেক বলিলা যদি ব্রহ্মার গোচর ।  
 পৃথ্বী সঙ্গে ব্রহ্মা তবে গেলা আপন ঘর ॥  
 তবে ব্রহ্মা বিদাএ করিলা পৃথ্বীরে ।  
 ভাবিতে ভাবিতে পৃথ্বী আইলা যাপন ঘরে ॥  
 ব্রহ্মাকে বিদাএ দিয়া শীব রইলা ধ্যানে ।  
 কথোক্ষণ পরে সেই কথা পইল মনে ॥  
 নন্দীকে ডাকিয়া শিব বলিছে বচন ।  
 দক্ষিণ সহরে তুমি জাহ ততক্ষণ ॥  
 সাহুরাজা নামে এক আছে পৃথিবিতে ।  
 অধিষ্ঠান হয়<sup>১</sup> জাইয়া তার দেহেতে ॥  
 বিপরিত পাপ হইল পৃথ্বীবি উপরে ।  
 ছুত পাঠাইঞা জেন পাপি লোক মারে ॥  
 এতেক শুনিঞা নন্দী গেলা সিংগতি ।  
 উপনিত হইলা গিয়া সাহুরাজা প্রতি ॥  
 সাহুরাজা বোলে তবে রঘুরাজার তরে ।  
 অনেক দিন হইল বাঙ্গালার চৌত না দেএ মোরে ॥

“ I have not got any ‘ chouth ’ from Bengal for a long time. So do please send a messenger to the (Moghul) Emperor to enquire why he does not send me that. Write a letter to the Emperor on this subject and promptly despatch a messenger to him with it.” Raghurāja accordingly wrote a very brief letter and handed it over to the messenger who kept it within his head-dress. This man started for Delhi the next morning, without delay, and duly delivered the letter to the Emperor. On receipt of this letter His Majesty commanded his Vizier to read it out for him at once. The Emperor learnt that the letter was about the ‘ chouth ’ of Bengal. His Majesty ordered his Vizier to write in reply that his representative in the province who ruled the land had grown refractory and ceased to pay him the revenue and that the Emperor had not a sufficient army at the moment to compel the rebel Nawab to submit to the orders of the Imperial Court. The Emperor added that as his own resources were not enough, he would suggest that the Mahratta chief might send an army to Bengal and realise the ‘ chouth ’ himself. When the letter of the Emperor containing this reply was delivered to the messenger, he received it with respectful obeisance and hurried on to Sātārā, the capital of Sāhurāja.

দুত পাঠাইয়া দেয়<sup>১</sup> বাদসার স্থানে ।  
 বাঙ্গালার চৌথাই না দেএ কীসের কারণে ॥  
 একখানি পত্র লিখ বাদসা প্রতি ।  
 দুত জেন তাহা লইয়া জাএ সিংগতি ॥  
 রঘুরাজা পত্র লিখে আখর পাচ সাতে ।  
 পত্র লইঞা দুত তবে বাধিলেন মাথে ॥

<sup>১</sup> দেয়=দেও, দেহ ।

Sāhu was sitting in his Durbar when the messenger arrived with the reply from the Emperor. This man respectfully delivered the letter to Sāhurāja and stood on one side with folded palms. Sāhu ordered his Dewan to read it aloud. The latter read out the following contents accordingly :—

“The Nawab of Bengal has grown disobedient and does not remit any revenue to the Emperor of Delhi for

রজনী প্রভাতে দূত জাএ সিগ্রগতি ।  
 পত্র আসি দিলেন জেখানে দিল্লিপতি ॥  
 উজিরকে যাজ্ঞা তবে দিলা দিল্লিশ্বরে ।  
 সিগ্রগতি পত্র পড়ি শুনায় <sup>১</sup> আমারে ॥  
 উজির পড়েন পত্র বাদসা সুনেন ।  
 সাহুরাজা লিখে বাঙ্গালার চৌথের কারণ ॥  
 বাদসা তবে আজ্ঞা দিলা উজিরেরে ।  
 পত্র লিখহ তুমি সাহু রাজারে ॥  
 চাকর হইয়া মারিলে সুরবারে ।  
 জবর হইল লালবন্দি না দেয় মোরে ॥  
 লোক লঙ্কর তবে নাই আমার স্থানে ।  
 হেন কোন জন নাই তারে গিয়া আনে ॥  
 বাঙ্গালা মুলুক সেই ভুঞ্জে পরম স্থখে ।  
 দুই বৎসর হইল লালবন্দি না দেএ মোকে ॥  
 জবর হইঞা সেই আছে বাঙ্গালাতে ।  
 চৌথের কারণে লোক পাঠায় তথাতে ॥  
 এতেক বচন পত্রে লিখীলা উজির ।  
 পত্র পাইঞা দূত তবে নোঞাইল সির ॥  
 দূত তবে বিদাএ হইলা তরিতে ।  
 সিগ্রগতি য়াসি পছছিলা সেতারাতে ॥

<sup>১</sup> শুনায় = শুনাও ।

the last two years. The Emperor, therefore, permits Sāhurāja to send an adequate army for quelling the revolt in Bengal and to collect the 'chouth,' from the Province."

On this information the rājā exclaimed, "Whom shall I send to Bengal?" Raghurāja was sitting near by. He thus replied smiling :—"If your Majesty permit, I shall go to Bengal myself. I shall easily realise the 'chouth' of the Province by force." Upon this Sāhu commanded him to do so.

Raghurāja at first sent his Dewan Bhāskaban(?) to Bengal with instruction to exact the 'chouth' on his master's behalf with all possible promptness. At the behest of Raghurāja, Bhāskar marched towards Bengal with an army. There was war-music consisting of many kinds of drums, and hundreds of flags which accompanied the army. Leaving

Second fol., reverse.

সভা করিএগ রাজা বইসা আছে ছানে ।  
 হেন কালে পত্র দূত আনে সেই খানে ॥  
 পত্র আসি দিলা দূত রাজার গোচর ।  
 ডাড়াইলা একভিতে করি জোড়কর ॥  
 আজ্ঞা দিলা দেওয়ানকে পত্র পড়িবারে ।  
 পত্র পড়িয়া দেওয়ান সুনান রাজারে ॥  
 জবর হইল সূবা বাঙ্গালা সহরে ।  
 দুই বৎসর হইল খাজনা না দেএ তারে ॥  
 আজ্ঞা দিলা বাদসা ফৌজ পাঠাইএগ ।  
 চোখাই নেএন জেন জবর করিএগ ॥  
 এতেক সুনিএগ রাজা লাগিলা কহিতে ।  
 কোন জনাকে পাঠাব মূলুক বাঙ্গালাতে ॥  
 রঘুরাজা নিকটে আছিল বসিআ ।  
 কহিতে লাগিলা তিনি হাসিয়া হাসিয়া ॥

Sātārā the Mahratta army reached Bijāpur. Here they halted for the night. There were dancing and amusement in the camp and in the morning the whole army was again on the move. It passed many villages and orchards and thus reached Nāgpur. From thence it reached Panchakot by a rapid march. Calling a spy before him Bhāskar enquired as to the whereabouts of the Nawab of Bengal. Upon this the man hurriedly left the camp to secure all necessary information. On enquiry he came to know that the Nawab was then residing at a place called “Raneer-dighir-Par” (the bank of Raneer’s reservoir) in the town of Burdwan. When this news was conveyed to Bhāskar he at once marched towards the place during the night to make a surprise attack.

আজ্ঞা কর বাঙ্গাল মুলুকে আমি জাই ।  
 জবর করিয়া তথা আনিব চৌথাই ॥  
 তবে তারে আজ্ঞা দিলেন রাজন ।  
 তিনি পাঠাইলেন দেওয়ান ভাস্কর(৭) ॥  
 রঘু তবে আজ্ঞা দিলা ভাস্করে ।  
 তৎপর করিয়া চৌথাই আনি দিবা মোরে ॥

রাজার আদেশ পাইয়া                      ভাস্কর চলিল ধাইয়া  
 সন্ত সন্তে করিয়া সাজন ।  
 ডঙ্কা নাগারা কত                      নিসান চলে সত সত  
 সন্ত মধে বাজিছে বাজন ॥  
 সেতারা ছাড়িয়া তবে                      বিজাপুর আইলা তবে  
 এক রাত্রি রইলা সেইখানে ।  
 রাগরঙ্গ হইল জত                      নাটুয়া নাচিল কত  
 কটক চলিল পর দিনে ॥

The troops advanced silently and stealthily, and reached Burdwan on the 19th of Baisakh (B.S.). The Bargis (the Mahratta light-armed horsemen) advanced with much glee. They left Birbhui to the left and eventually surrounded Burdwan by the way of Goālābhui. The Harkarās (sentinels as well as secret agents) of the town were surprised by the enemy. They sent information of the situation to one Rājārām, their chief, who in turn communicated the whole affair to the Nawab which was to the effect that eluding the vigilance of Rājārām a Mahratta army has suddenly surrounded the Nawab. At this the Nawab commanded him to send Harkarās for further information about the enemy. These spies contrived to secure the required news from the enemy's camp by

গ্রাম উপবন কত                      লস্কর এড়াএ জত  
    নাগপুর আসি উপনিত ।  
 সেখান ছাড়িয়া জবে                      লস্কর যাইলা তবে  
    পঞ্চকোটে আসিলা তরিত ॥  
 ডাক দিয়া ছুতকে                      ভাস্কর কহিল তাকে  
    নবাব আছে কোন খানে ।  
 আঞ্জা দিলা সেনাপতি                      ছুত চলে সিগ্রগতি  
    নাবাব আছে জেই খানে ॥  
 ছুত সম্বাদ লইয়া                      সিগ্র চলিল ধাইয়া  
    আসিয়া কহিল তার স্থানে ।  
 বর্দ্ধমান সহরে                      রাণির দিঘির পারে  
    নবাব আছে সেইখানে ॥  
 ছুত মুখে স্থনি কথা                      ভাস্কর চলিল তথা  
    লস্কর লইয়া নিশাতে ।  
 লস্কর নিসন্দে জাএ                      কেহ নাহি জানে তাএ  
    আইলা বৈসাখ উনিশাতে ॥

mixing up with the enemy as Mahratta soldiers. Their information was as follows :—There were one Sirdar (commander-in-chief), twenty-four Jemadars (Divisional commanders), and forty thousand troops in the Mahratta army. They came from the fort of Sātārā being sent by Sāhurāja for collecting the ‘chouth’ from the Province of the Nawab of Bengal. On hearing this, the Nawab sent for his own Jemadars and addressed them as follows :—

“The Bargis have come from Sātārā to my territory for exacting the ‘chouth.’ What do you say to this? So long the practice was that the revenues of Bengal would go first to the Emperor at Delhi from *whom* the Bargis were entitled to realise the ‘chouth.’ This was the practice during the late Nawabship of Sujā Khān.”

বৈশাখের উনিশা জাএ                      বরগি আইলা তাএ  
 মহা যানন্দিত হইয়া মনে ।  
 বিরভুই বামে থুইয়া                      গোআলা ভুইর কাছ হইয়া  
 আসিয়া ঘেরিল বর্দ্ধমানে ॥  
 তবে বরগীর লস্করে                      চতুর্দিকে আসি ঘিরে  
 হরকারা কেহ নাহি জানে ।  
 দুই প্রহর রাইতে                      হরকারা আইলা তাথে  
 আসী কৈল রাজারাম স্থানে ॥  
 রজনী প্রভাত হইল                      রাজারাম হরকারা আইল  
 আসিয়া কহিল নবাবেরে ।  
 ইহা আমি না জানিল                      আচম্বিতে সন্ধ্যা আইল  
 আসিয়া ঘেরিল লস্করে ॥  
 রাজারামে এত কএ                      নবাব সুনীয়া রএ  
 তদপরে দিলেন উত্তর ।  
 হরকারা পাঠাইয়া                      হকিকত আন জায়া  
 কোথা হইতে যাইল লস্কর ॥

A Jemadar named Mustāfā Khān said in reply :—

“Your Excellency may take such action as may be considered prudent.”

Upon this the Nawab commanded his Vakeel or Agent to go to the leader of the Bargis for enquiry as to why his army had laid siege to the Nawab's territory.

On being enquired into by the Nawab's Agent the Mahratta General replied as follows :—

এতেক স্থানিল জবে                      হরকারা পাঠাইল তবে  
ফৌজর নির্ণয় জানিবারে ।  
সাজিঞা হরকরা                      লঙ্করে ফিরে তারা  
আসিয়া কহিল নবাবেরে ॥  
চব্বিশ জমাদার                      ভাস্কর সরদার  
চল্লিশ হাজার ফৌজ লইঞা ।  
সেতারা গড় হইতে                      বরগী আইল চৌথ নিতে  
সাহরাজার হুকুম পাইঞা ॥  
এতেক কথা স্থনিয়া                      জমাদার আনে ডাক দিয়া  
কহিতে লাগিলা নবাব ।  
সেতারা গড় হইতে                      বরগী আইলা চৌথ নিতে  
ইহা কি বোলহ জবাব ॥  
বাদশাই খাজনা জাইত                      শেখানে চৌধাই পাইত  
সুজা খা আছিল জখন ।  
মুস্তাফা খাঁ এত কএ                      জাহা তোমার চিন্তে লএ  
তাহা তুমি করহ এখন ॥  
উকীলকে কহিল                      সন্ত সাইজা কেন আইল  
এই কথা বল জাইয়া তারে ।  
উকীল কহেন কথা                      ভাস্কর স্থনেন তথা  
তবেত কহিল তারপরে ॥





latter was to send him the 'chouth' of Bengal in return. If this condition is yet fulfilled, the revenue of Bengal will be sent to Delhi and you will have to receive your 'chouth' from there."

*Bhāskar.*—"I am commanded by the Emperor of Delhi to collect the 'chouth' from Bengal directly. If you do not abide by His Majesty's wishes I shall have to fight you and your master will no doubt lose the Province."

*The Agent.*—"Why do you threaten my master? What your army (which has surrounded our town) can do? Many a time and oft we encountered such an army as yours. They have never been a match for the army of the

সুনীয়া উত্তর দিলা                      চৌথ নিতে না জানিলা

উকীল পাঠাইতা তার কাছে ।

উকীল জাইয়া পরে                      কহিতে নবাব তরে

চৌথাই দিতেন তিনি পাছে ॥

আপন কটক লইয়া                      পুন জায় ফিরিয়া

কহ তবে বাদসার স্থানে ।

সনদ জদি দেএ                      খাজনা তবে জাএ

চোথাই পাবে সেইখানে ॥

ভাস্কর তবে কএ                      বাদসার হুকুম হএ

চৌথ নিবার কারণ ।

চৌথাই না দিবে জবে                      রাখ্য নষ্ট হবে তবে

তার সনে করিব আমি রণ ॥

এতেক বচন সুননি                      উকিল কহেন বানি

ভদ্র তুমি কিসে দেখায় তারে ।

তোমার জতেক সেনা                      চতুর্দিকে দিল থানা

তারা সব কী করিতে পারে ॥

Nawab, who has achieved the fame of being invincible in the war."

Bhāskar listened to this speech and thus finally declared :—

"If you fail to give us the 'chouth,' we shall certainly make war on your master. Do communicate our object to your master."

Upon this, the Agent returned to the Nawab, and informed him of the intentions of Bhāskar to make war on him.

On hearing this the Nawab called all his Jemadars to his presence and informed them that the Mahratta chief repeatedly demanded the 'chouth' from him. Upon this all these men replied,—better the money should be bestowed on the Nawab's sepoy than to be spent it as subsidy to the Mahratta Camp. They further said,—“We are prepared

তুমি যেমন একজন                      এমন আইসে সহস্রজন  
 তবু তার ভুরুক্ষেপ নাই ।  
 চৌধুটা মূলুকে                      সবাই জানএ তাকে  
 নবাবের সমান কে আছে সিপাই ॥  
 উকীল বুলিলা জবে                      ভাস্কর জানিলা তবে  
 কহিতে লাগিলা তার পরে ।  
 চৌথাই না দিবে জবে                      যুদ্ধ করিব তবে  
 এইকথা বোল জাইয়া তারে ॥  
 উকীল আসিঞা পরে                      কহিল নবাবে তবে  
 ডাক দিয়া জমাদারে কহে ॥  
 জত জমাদার ছিল                      তারে নবাব কহিল  
 চৌথাই চাহে বারে বারে ।  
 জতেক সরদার ছিল                      তারা সব কহিল  
 সেই টাকা দেহ সিপাএরে ॥



“How many of you have surrounded the town and how many of you have gone out for pillage.” This query made many Jemadars get ready for going out to devastate the surrounding locality. The following are the names of those Bargis who went out for the above purpose. They were, Dhāmdhwamā, Hirāman Kāsi, Gangāji Ambhā, Simanta Yosi. Bālāji, Sevāji Kohadā, Sambhuji, Kesaji Āmoda, Kesari Singh and Mohan Singh. The last two were cobblers by caste as well as army leaders by profession and with all of them accompanied five thousand horse. These ten men went out for pillaging the villages while fourteen other men remained in the camp surrounding the town. They were Bālā Rao, Sesa Rao,<sup>1</sup> Sis Pandit,<sup>2</sup> Semanta Sehadā,

ধামধ্বমা জাএ আর হিরামন কাসি ।  
 গঙ্গাজি আস্তা জাএ আর সিমন্ত জোসি ॥  
 বালাজি জাএ আর সেবাজি কোহড়া ।  
 সম্ভুজি জাএ আর কেসজি আমোড়া ॥  
 কেসরি সিংহ মহন সিংহ এ দুই চামার ।  
 জার সঙ্গে জাএ ঘোড়া পাঁচ হার ॥  
 এই দশ জনা জাএ গ্রাম লুটিতে ।  
 আর চৌদ্দ জনা থাকে নবাবের চাইর ভিতে ॥  
 বালারাও সেসরাও আর সিস পণ্ডিত ।  
 সেমন্ত সেহড়া আর হিরামন মণ্ডিত ॥

<sup>1</sup> This army leader has been mentioned by the author of the *Seir Mutakherin*, Vol. I, p. 394. Thus :—

“The conspirators had already applied to the Mahratta general and had obtained from him an officer of consequence named Siss Rao, with a body of troops, that had concealed themselves close to Hoogly.”

<sup>2</sup> Pandit Arsis in Prof. Samaddar's translation.

Hiraman Mandit, Mohan Rai, Pita Rai, Siso Pandit, (these men having valiant Bargis under them), Nirāji,<sup>1</sup> Sāmāji,<sup>2</sup> Firanga Rai (the Bargis under them hastened up to loot the country), Adi— (other letters indistinct), Sultān Khān, and Bhāskar. One by one no less than seven days passed by. In the meantime the Bargis managed to cut off all food supplies of the garrison. The grocers and the banias could not come out of the town for purchasing purposes as the besiegers recklessly looted and killed everybody whom they could lay their hands upon. In apprehension of the Bargis none could stir out. The Bargis besieged the town on all sides and so the procuring of food supplies became impossible. In the town rice, pulses, split peas, oil, ghee (clarified butter), ātā (flour), sugar and salt—all began to sell at one rupee per seer.

Third fol., reverse.

মোহন রাত্র পিত রাত্র আর সিসো পণ্ডিত ।  
জার সঙ্গে আছে বরগি মহা বিপরীত ॥  
নিরাজী সামাজি আর ফিরঙ্গ রাত্র ।  
লুটিতে জাহার সঙ্গে বরগি দ্রিত ধাএ ॥  
আদি \* \* স্থলতান খাঁ আর ভাস্কর ।  
এই চৌদ্দ জনাতে ঘেরিল লস্কর ॥  
একদিন দুইদিন করি সাতদিন হইল ।  
চতুর্দিকে বরগীতে রসদ বন্ধ কৈল ॥  
মুদি বানিঞা জত বারাইতে নারে ।  
লুটে কাটে মারছে মুতে পাএ জারে ॥  
বরগীর তরাসে কেহ বাহির না হএ ।  
চতুর্দিকে বরগির তরে রসদ না মিলএ ॥

1 Sivaji in Prof. Samaddar's translation.

2 Sambhaji in Prof. Samaddar's translation.

Even kitchen vegetables became scarce and as a result all the poor people and beggars began to die of starvation. The gānjā, bhāṅg and tobacco also could not be bought. For want of kitchen vegetables the people were at a loss to account for what they should live on. They were obliged to depend upon the pith<sup>1</sup> of the banana plant which were brought by the people for this purpose. These were boiled before being eaten by the townsmen. All kinds of people whether

চাউল কলাই মটর মুষরি খেসারি ।  
 তেল ঘি আটা চিনি লবন এক সের করি ॥  
 টাকা সের হইল আনাজ কিস্তে নাহি পাএ ।  
 খুন্স কাঙ্গাল জত মইরা মইরা জাএ ॥  
 গাজা ভাংগ তামুক না পাএ কিনিতে ।  
 আনাজ নাহি পাওয়া যাএ লাগিল ভাবিতে ॥  
 কলার আইঠা জত আনিল তুলিয়া ।  
 তাহা আনি সব লোকে খায় সিজাইয়া ॥  
 ছোট বড় লঙ্করে যত লোক ছিল ।  
 কলার আইঠা সিদ্ধ সব লোকে খাইল ॥  
 বিসম বিপত্য বড় বিপরিত হইল ।  
 অন্তপরে কা কথা নবাব সাহেব খাইল ॥  
 এই মতে লঙ্কর আছিল চৌদ্দ রোজ ।  
 তবে নবাব কুচ কৈলা লইয়া সব ফৌজ ॥  
 ঘোড়ার উপরে কত নিশান চলিল ।  
 তবে ডঙ্কা নাগারা কত বাজিতে লাগিল ॥  
 ঝাকুড় ঝাকুড় কত সাদিয়ানা বাজাএ ।  
 মাহিসরা(?)<sup>2</sup> তবে নবাবের আগে জাএ ॥

<sup>1</sup> Roots of plantain—Samaddar.

<sup>2</sup> Not intelligible. 'মাহিসরা' in place of 'মাহিসরা' is found in the printed Sahitya-Parishad edition.

high or low, ate them. Even the Nawab himself was no exception to this, so great were the sufferings in the town. In this horrible condition the troops of the Nawab waited for fourteen days. At last the Nawab was compelled to fight the Bargis. Flags were carried on the horses. Many drums of various sizes were being played on. The drummers accompanying the cavalry began to beat their drums very loudly creating a great uproar. The syces<sup>1</sup> preceded the Nawab in the march.

চাইদিগে লস্কর চলে নাই লেখা জোখা ।  
 হেনকালে চতুর্দিকে বরগী দিল দেখা ॥  
 চাইর দিগে বরগী আইল কত আর ।  
 তা সবার হাতে দেখি লাহাজা<sup>2</sup> তলোয়ার ॥  
 তখন নবাবের লস্করে পাইল হড়বড় ।  
 হেন বেলা তেরহইনাতে ধরিলা ডেহড়<sup>3</sup> ॥  
 হাঁজারে হাজারে ঘোড়া উঠাএ একিবারে ।  
 হারা হারা<sup>4</sup> কইরা আইসে কাছাইতে নারে ॥  
 তবে মুস্তাফা খাঁ চাইর হার ঘোড়া লইয়া ।  
 বরগি খেদাইয়া জাএ ডেহড় মারিয়া ॥  
 তবে সামনে হইতে বরগী পলাইল ।  
 আর কত বরগি আইলা পিছাড়ি ঘেরিল ॥  
 মির হবিব তবে পিছাড়িতে ছিল ।  
 বেকাবুতে পইড়া সেহ মিসাইল ॥

<sup>1</sup> See footnote 2 in p. 18.

<sup>2</sup> লাহাজা = ল্যাঙ্গা (naked, open from the scabbard).

<sup>3</sup> তেরহইনা seems to be a place and ডেহড় possibly hurried march in fear.

<sup>4</sup> 'Hara', a name of the great god Siva, was the war-cry of the Mahrattas like those of the Rajputs.



The troops advanced from all sides and their number was great. When suddenly the Bargis too appeared on all sides they drew their swords from their scabbards and charged the Nawab's troops. Thousands of Bargi cavalry attacked the Nawab's troops furiously. Upon this the Nawab's army got afraid and confusion occurred among them. They incessantly advanced in good speed from Terahainā when thousands of Bargi troopers proceeded to meet them in vain shouting 'Hara, Hara.' But one officer of the Nawab named Mustāfā Khān<sup>1</sup> with his valiant cavalry composed of four squadrons drove back the Bargis with great impetuosity. Thus the frontal attack of the Bargis having failed some of them surrounded the Nawab's army from rear. Meer Habib,<sup>2</sup> an officer of the Nawab who was in command of the Rear-guard foolishly gave way, deserted his master's side and joined the Bargis. Thus having no obstruction before them the Bargis began freely to pillage what they found in front of them. The Bargi troopers burnt all the tents and quarters of the Nawab and plundered all the treasure-carts that

পিছাড়ি লুটিল বরগি য়াসি আর কত ।  
 পোড়াইল ডেরাডাণ্ডা তাম্বু যত ॥  
 খাজনার গাড়ি জত সাতে ছিল ।  
 চাইর দিগে বরগি আইসা লুটিতে লাগিল ॥  
 হাতি ঘোড়া কত লুইটা লইয়া জাএ ।  
 বড় বড় সিপাই জত অমনি পলাএ ॥  
 দউড়া দউড়ি আইলা তবে নিকুল সরাএ ।  
 মোসাহেবখাঁ তবে পড়িল ঘেরাএ ॥

<sup>1</sup> For Mustāfā Khān see Introduction.

<sup>2</sup> For Meer Habib see Introduction.

were kept in the rear of the Nawab's army. They also looted many elephants and horses, while all the valiant sepoys of the Nawab fled away instantly. In this confusion Mosāheb Khān (of the Nawab's army) was captured in the thick melee with some elephants and twenty-five horses. The Nawab himself retreated and marched to

ডেড়হাত্তির<sup>১</sup> সাইর হইল তার সাএ ।  
 পচিশ ঘোড়া স্বর্দা খেত আইল তাথে ॥  
 মোসাহেব খাঁ জদি পইল নিকুনেতে ।  
 যল্দি নবাব যাইল কাঁটয়াতে ॥  
 এখাতে হাজি সাহেব রসদ লইঞা ।  
 পাঠাইঞা দিল কত নৈকায় করিয়া ॥  
 তবে রসদ আসিয়া কাটঞাতে পহচিল ।  
 নবাব সাহেবের লোক খাইয়া বাচিল ॥  
 ঘেরাও হইতে নবাব আইল কাটঞাতে ।  
 শুনিয়া ভাস্কর তবে লাগিল ভাবিতে ॥  
 ছি ছি ছি হাএ হাএ গেল পলাইয়া ।  
 এতদিন ত্রথা আসিয়া ছিলাম ঘেরিয়া ॥  
 তবে সব বরগি গ্রাম লুটিতে লাগিল ।  
 জত গ্রামের লোক সব পলাইল ॥  
 ব্রাহ্মণ পণ্ডিত পলাএ পুথির ভার লইয়া ।  
 সোণার বাইনা পলায় কত নিক্তি হড়পি লইয়া ॥  
 গন্ধৰ্বণিক পলাএ দোকান লইয়া জত ।  
 তামা পিতল লইয়া কাঁসারি পলাএ কত ॥

<sup>১</sup> About the Bengali expression ডেড়হাত্তির সাইর Mr. Mustafi wanted to make it mean some tactical formation (বৃহ) of troops. I think হাত্তি means হাতি or elephant and ডেড়হাত্তি means a line and a half of elephants in battle array.

Kātowā.<sup>1</sup> In the meantime Hāji Sāheb sent provisions to the Nawab in some boats. The suffering men of the Nawab reduced to great distress considered this help as Providential and were thus saved when these provisions reached Kātowā. Thus although surrounded by the Bargis, the Nawab was still able to escape to Kātowā and this news made Bhāskar meditate seriously,—“Fie unto me,” said Bhāskar in his mind. “I surrounded the Nawab so long for nothing. I feel extremely disgraced owing to the successful retreat of the Nawab.” The Bargis then engaged in wholesale pillage of the surrounding locality. The villagers all around fled away in all directions and in deep distress. The learned Brahmins ran away with their loads of *Puthis* (manuscripts), the goldsmiths fled with their scales and weights; the spice-dealers also followed with the goods of their shops.

কামার কুমার পলাএ লইয়া চাক নড়ি ।  
 জাউলা মাউছা পলাএ লইয়া জালদড়ি ॥  
 সঙ্কবণিক পলাএ করা লইয়া যত ।  
 চতুর্দিকে লোক পলাএ কি বলিব কত ॥  
 কাএস্ত বৈষ্ণ জত গ্রামে ছিল ।  
 বরগির নাম স্ত্রীনা সব পলাইল ॥  
 ভাল মানুষের স্ত্রীলোক জত হাটে নাই পথে ।  
 বরগীর পলানে পেটারি লইল মাথে ॥  
 ক্ষেত্রি রাজপুত্র যত তলয়ারের ধনি ।  
 তলয়ার ফেলাইঞা তারা পলাএ যমনি ॥  
 গোসাঞি মোহাস্ত জত চোপালায় চরিয়া ।  
 বোচকা বুচকি লয় জত বাহকে করিয়া ॥

<sup>1</sup> “.....In the engagement with Ragho-Dje at the Ranee’s Reservoir Shimshir-qhan had suffered him to escape.”—S. Mutakherin, Vol. II, p. 15.

In this way, the bell-metal-dealers (with their wares), the blacksmiths, the potters (with their wheels), the boatmen, the fishermen (with their nets and ropes) and the shell-bracelet-dealers—all took different directions for their safety. All the Kāyasthas and the Vaidyas

4th fol., obverse.

decamped from their homes with their belongings even only hearing the dreaded name of the Bargis. The ladies belonging to the families of the upper classes who never travelled on foot, were obliged to do so with baskets on their heads. All the Kshatriyas and the Rajputs, who were professional fighters, left their swords and took to their heels to save

চাঙ্গা কৈবর্ত জত জাএ পলাইঞা ।  
 বিছন বল্দের পিঠে লাঙ্গল লইয়া ॥  
 সেক সৈয়দ মোগল পাঠান জত গ্রামে ছিল ।  
 বরগির নাম সুনীনা সব পলাইল ॥  
 গর্ভবতি নারী যত না পারে চলিতে ।  
 দারুণ বেদনা পেয়ে প্রসবিছে পথে ॥  
 সিকদার পাটআরি জত গ্রামে ছিল ।  
 বরগির নাম সুনীনা সব পলাইল ॥  
 দশবিস লোক যাইসা পথে দাড়াইলা ।  
 তা সভারে সোধাএ বরগি কোথাএ দেখিলা ॥  
 তারা সব বলে মোরা চক্ষে দেখি নাই ।  
 লোকের পলান দেইখা আমরা পলাই ॥  
 কাঙ্গাল গরীব জত জাএ পলাইয়া ।  
 কেথা ধোকড়ি কত মাথাএ করিয়া ॥  
 বুড়া বুড়ি জাএ জত হাতে লইয়া নড়ি ।  
 চাঞি ধানুক<sup>1</sup> পলাএ কত ছাগলের গলায় ঝড়ি ॥

<sup>1</sup> চাঞি ধানুক = এক জাতীয় সাঁওতাল ।

themselves. All the Goswamis (spiritual preceptors) and the Mohantas (keepers of holy shrines) fled in Dulis (a kind of light palanquins) on the approach of the Bargis, their luggage being carried by their attendants. All the cultivating Kaivartas went their way with bullocks in their front. These bullocks carried the seeds and the cultivators themselves carried the ploughs behind them. The Mahomedan population, such as the Sheiks and Saiyads, all fled in disorder. The pregnant women being unable to walk gave birth to children on the way after enduring severe hardships. The matchlock-men and the village accountants—all left their village homes on hearing a report of the advent of the Bargis. When a group of men were found on the way people asked them as to where they had seen the Bargis. They in return replied, “We have never seen the Bargis with our own eyes, but we flee as other people also are doing so.” The poor and indigent men all left their places with country-blankets on their heads. The old men and women fled with sticks in their hands. Aborigines belonging to the Sonthal tribe known as ‘Chāiñ-Dhānuk’ also followed them dragging the goats tied with strings. All fled for fear of the Bargis panic-stricken. So the thirty-six castes of the Hindus fled without exception.

ছোট বড় গ্রামে জত লোক ছিল ।

বরগির ভএ সব পলাইল ॥

চাইর দিগে লোক পলাএ ঠাঞি ঠাঞি ।

ছর্তিস বর্ণের লোক পলাএ তার অন্ত নাঞি ॥

এই মতে সব লোক পলাইয়া জাইতে ।

আচম্বিতে বরগি ঘেরিলা আইসা সাথে ॥

মাঠে ঘেরিয়া বরগী দেয় তবে সাড়া ।

সোনা রূপা লুটে নেএ আর সব ছাড়া ॥

But the Bargis were too clever for them. They surrounded the fleeing people all on a sudden in open fields and gave shouts which served as signals. The plundering of gold and silver was not all.

The Bargis cut down the hands, noses and ears of their unhappy victims. They also killed many by inflicting deadly blows. They captured fair women, tied their fingers and necks with ropes, and a number of them caught hold of a single youthful woman and inhumanly treated her by brutally dishonouring her. The women groaned under their fell villainy. After giving full vent to their beastly desires in this way, the Bargis left these women to their fate and began to carry on their depredations in the villages. They set fire to the houses without sparing the Chauāris, Bāngālās, Vishnu-mandabs and even the small huts of the poor,—all of which were indiscriminately burnt down. They oppressed the people horribly. They tied the hands of some of their victims behind their backs and kicked

কারু হাত কাটে কারু নাক কান ।

এক চোটে কারু বধএ পরাণ ॥

ভাল ভাল স্ত্রীলোক জত ধইরা লইয়া জাএ ।

আঙ্গুষ্ঠে দড়ি বাঁধি দেয় তার গলাএ ॥

এক জনে ছাড়ে তারে আর জনা ধরে ।

রমনের ভরে ত্রাহি শব্দ করে ॥

এই মত বরগি কত পাপ কৰ্ম্ম কইরা ।

সেই সব স্ত্রীলোক জত দেয় সব ছাইড়া ॥

তবে মাঠে লুটিয়া বরগী গ্রামে সাধাএ ।

বড় বড় ঘরে আইসা আগুনি লাগাএ ॥

বাঙ্গালা চৌআরি জত বিষ্ণুমণ্ডব ।

ছোট বড় ঘর আদি পোড়াইল সব ॥

others with their shoes till they fell down to the ground. They cried for more money and as their growing demand could not be met, the unfortunate people were belaboured and water was made to pass through their nostrils till suffocation. Some they drowned in water of the tanks. Thus the Bargis killed people without mercy under all kinds of pretexts, for extortion of money. Those who had money gave their all to the Bargis and those who had not lost their lives. The sacred canal Bhāgirathi, brought down from Heaven by Prince Bhagirath for saving the sinners, now became filled with fugitives who crossed the river to fly from the hands of their unscrupulous pursuers. The names of the places burnt by the Bargis are given below. These were—

Chandrakona, Medinipur, Dignagar (Diganpur, Parishad edition), Khirpai, Burdwan, Nimgāchhi, Sherga, Simaitā, Chandipur and Syampur. In this way the

এই মতে জত সব গ্রাম পোড়াইয়া ।  
 চতুদ্দিগে বরগি বেড়াএ লুটিয়া ॥  
 কাহ্নকে বাঁধে বরগি দিয়া পিঠমোড়া ।  
 চিত কইরা মারে লাথি পাএ জুতা চড়া ॥  
 রূপি দেহ দেহ বোলে বারে বারে ।  
 রূপি না পাইয়া তবে নাকে জল ভরে ॥  
 কাহ্নকে ধরিয়া বরগী পথইরে ডুবাএ ।  
 ফাফর হইঞা তবে কারু প্রাণ জাএ ॥  
 এই মতে বরগি কত বিপরীত করে ।  
 টাকা কড়ি না পাইলে তারে প্রাণে মারে ॥  
 জার টাকা কড়ি আছে সেই দেয় বরগিরে ।  
 জার টাকা কড়ি নাই সেই প্রাণে মরে ॥  
 ত্রেতা জুগে রাজা ভগীরথ ছিল ।  
 অনেক তপস্তা করি গঙ্গা আনিলা ॥

whole locality of Burdwan was put to the flames. The Bargis next approached Hooghly where Pir Khan (Sher Khan, Parishad edition) was the Foujdar.

It was for him that the Bargis could not ravage the town. But in this locality they succeeded in sacking the Raja's house at Sātsaikā ; besides they attacked and burnt the following places :—

Chāndpur, Kālṇā (Kalmara, Parishad ed.), Bansberia, (Sarai in the Parishad ed.), Madwai (Dāmadwai, Parishad ed.), Jadupur, Bhatchhala, Meerjapur, Chāndadā, Kuḍban, Palāsy (Plassey), Bauchi, Beuḍā, Samudrargad, Jānnagar, Nuddea, Māhātāpur, Sunanthapur, Thail, Parānpur, Bhātara, Māndadā, Sarbhāngā, Dhitpur,

পৃথিবীতে নাম তার হইলা ভাগিরথী ।

তার পার হইয়া লোকে পাইলা অব্যাহতি ॥

তঁবে কোন কোন গ্রাম বরগী দিলা পোড়াইয়া ।

সে সব গ্রামের নাম সুন মন দিয়া ॥

চন্দ্রকোনা মেদিনীপুর আর দিগনগর ।

খিরপাই পোড়ায় আর বর্দ্ধমান সহর ॥

নিমগাছি সেড়গা আর সিমইলা ।

চণ্ডীপুর শ্যামপুর গ্রাম আনইলা ॥

এই মতে বর্দ্ধমান পোড়ায় চাইরভিতে ।

পুনরপি আইলা বরগি বন্দর হুগলিতে ॥

পির থাঁ ফৌজদার তবে হুগলিতে ছিল ।

তাহার কারণে বরগী লুটিতে নারিল ॥

সাতসইকা রাজবাটী আর চাঁদপুর ।

কালনা, বাঁশবেড়িয়া, মর্দৈ, জুহুপুর ॥

ভাটছালা পোড়াএ আর মেরজাপুর চান্দড়া ।

কুড়বন পলাসি যার বউচি বেউড়া ॥



Chāndaḍa and Sātsaikā (mentioned twice), Jagirābad, Kumirā, Baultali, Nimdā, Kaḍai, Kaithan (Kadaï-Kaithan, Parishad ed.), Chārail, Singibāskā, Ghodānā (Ghodānāsh, Parishad ed.), Samastail (Mastail, Parishad ed.), Gotpādā, Chāndpaḍa, Agdia, Pātani (Patali, Parishad ed., burnt in one night), Ataihat, Pātāihat, Dāiñhāt,<sup>1</sup> Beda-Bhāosingh, Bikiñhāt, Indrāil Pargannah,<sup>2</sup> Kāgā-Mogā (an inland port belonging to the Dutch), Jemuakandi, Birbhuin Pargannah, Āmdaharā, Mahādevpur (Mahaserpur, Parishad ed.), Goālābhuin, Senabhuin

সমুদ্রগড় জাল্লগর আর নদিয়া ।  
 মাহাতাপুর স্ননগটপুর থইল পোড়াএ গিয়া ॥  
 পরাণপুর ভাটরা পোড়াএ আর মান্দড়া ।  
 সরভাঙ্গা খিতপুর আর গ্রাম চান্দড়া ॥  
 সাতসইকা জাগিরাবাদ সকল পোড়াইঞা ।  
 কুমিড়া বউলতলি নিমদা পোড়াএ গিঞা ॥  
 কড়ই কৈথান পোড়াএ আর চাড়াইল ।  
 সিঙ্গিবান্কা ঘোড়ানা সমস্তইল ॥  
 গোটপাড়া চাঁদপাড়া আর য়াগদিয়া ।  
 রাতারাতি পাটনি দিল পোড়াইয়া ॥  
 আতাইহাট পাতাইহাট আর ডাঞিহাট ।  
 বেড়া ভাওসিংহ পোড়াএ আর বিকীহাট ॥

<sup>1</sup> Daiñhat is one of the thirteen 'Hats' of Indrani Parganna. It is the southernmost 'Hat.' About sixty years back the Ganges flowed by Daiñhat. It was once a very famous place and home of many stone-masons.

<sup>2</sup> Indrail or Indrani Pargannah was formerly to the south of the river Ajaya. It once formed a part of the Burdwan district but is now included in the Hooghly district. For details of some of these places see *রাড়-ভ্রমণ* by Panchanan Banerjee, *সাহিত্য-পরিষদ্-পত্রিকা*, ৩য় সংখ্যা, সন ১৩১৪.

and Vishnupur (the Bargis were unable to injure Van-Vishnupur due to the efforts of the ruler of Vishnupur named Gopal and so it was saved).<sup>1</sup> The Bargis then made a rush to loot the town (of Hooghly) by keeping Naihati, Urdhanpur and Katwa to the right. They crossed the river Bāblā, and passed Mākulpādā (Mānganpādā, Parishad ed.), Sātai, Kām Nagar, Mahunā (Mahulā Parishad ed.), Chourigāchhā, Kāthālā, Ādhār-manik (*viā* Rangamāitā), Goāljan, Budhaipādā, and Neanispādā (Nealishpādā, Parishad ed.) and rapidly reached Dāhāpādā. On the opposite bank of the river Ganges on which stood Dāhāpādā, was

এইরূপে ইন্দ্রাইল পরগনা বরগি লুটি ।  
 কাগাএ মাগাএ লুটে ওলন্দেজের কুটি ॥  
 এইরূপে কাগামোগা পোড়াইঞ ।  
 রাতারাতি পহাচিলা জেমুয়াকান্দি গিঞ ॥  
 তবে বিরভুই পরগনা বরগি দিল পোড়াইয়া ।  
 আমডহরা মহদেবপুর থানা কৈল গিঞ ॥  
 গোয়লাভুঞ সেনভুঞ সব পোড়াইলা ।  
 চতুদিগ পোড়াইয়া বিষ্ণুপুর আইলা ॥  
 তবে বোনবিষ্ণুপুর গোপাল রক্ষা করে ।  
 যসাঅ বরগির তবে কি করিতে পারে ॥  
 সহর লুটিতে বগী তবে আইল ধাইয়া ।  
 নৈহাটী উর্দানপুর কাটঞ ডাইনে থুইয়া ॥  
 বাবলা নদী বরগি তবে পার হইল ।  
 মাকুলপাড়া সাটই কামনগর আইল ॥

<sup>1</sup> See Bengal District Gazetteer, No. XIV. See also Pravasi, Falgoun 1332 B. S., p. 708. Gopal Singha was ruler of Vishnupur sometime between 1730-1745 A.D. See also Riyaz-us-salatin and S. Mutkherin. There is a current belief that the tutelary deity Madanmohan Himself fought against the Marathas.

Hajiganj. Herein lived Haji, the Deputy Nawab (ছোট নবাব), who, on hearing of the approach of the Bargis, concealed himself at Kirnā.<sup>1</sup> The Bargis, by that time, crossed the Ganges and reached the ghat of Hajiganj. On arriving at the place they promptly looted the treasury of Jagat Seth. It contained money amounting to two crores and a half all of which were plundered. The Bargis kept their plunder concealed in the kit meant for the grain-sack (for horses). After scattering a few hundred rupees on the floor in a hurry, they recrossed the river. As soon as they left the place the Fakirs and the common people who happened to be present

মহনা, চৌরিগাছা আর কাঠালিয়া :  
 আধারমানিক আইলা বরগী রাজমাইটা দিয়া ॥  
 গোয়ালজান বুধইপাড়া আর নেয়ানিস পাড়া ।  
 শীত্ৰগতি আসিয়া পহচিলা দাহাপাড়া ॥  
 হাজি ছোট নবাব উপারে ছিল ।  
 বরগির নাম স্ত্রীনা কীলাএ সাঁধাইল ॥  
 তবে বরগি পার হইল হাজিগঞ্জের ঘাটে ।  
 শীত্ৰগতি আইসা জগৎ সেটের বাড়ী লুটে ॥  
 আড়কাট টাকা যত ঘরে ছিল ।  
 ঘোড়ার খুরচি ভইরা সব টাকা নিল ॥  
 তবে সও দুই তিন টাকা ছিটাইঞা ।  
 শীত্ৰগতি গেলা বরগী গঙ্গা পার হইয়া ॥  
 তবে ফকীর ফকীরা গিরস্ত জত ছিল ।  
 সেই সব টাকা তারা লুটিতে লাগিল ॥  
 তবে কাটঞাতে নবাব সাহেব স্থানিল ।  
 জগৎ সেটের বাড়ী বরগি লুইটা গেল ॥

<sup>1</sup> According to the Sahitya-Parishad edition, the word is 'Killā' (কীলা) and not Kinnā or Kirnā. The former word means a fort.

there commenced to imitate the example of the Bargis and loot the money left there.

The Nawab who was at Katwa heard in due course that the house of Jagat Seth had been plundered. When a messenger brought this bad news, he at once left Katwa. In course of one night the Nawab marched to Monkara. He reached this place by early morning. Here the Nawab put many questions to Haji Saheb and expressed his sympathy for the mishap at Jagat Seth's house by rebuking the Haji for his inability to protect Jagat Seth's house while the Haji had an army at his disposal. When the Nawab Saheb reached Kirnā, all the Bargis concentrated at Katwa. It was the month of Āsāḍha and the rains fell heavily when not only the river Ajaya but also the river Ganges became overflowed. So the Bargis could not continue their plundering raids any longer. They dispersed in various directions and

‘এতেক কথা জদি হরকারা কহিল ।  
 কাটঞা হইতে নবাব শীঘ্র চলিল ॥  
 রাতারাতি তবে নবাব আইলা মোনকরা ।  
 ভোর হইতে হইতে তবে পহচিলা ডেরা ॥  
 তবে হাজি সাহেবকে নবাব অনেক বুলিল ।  
 এতেক লঙ্কর রইতে বাড়ী লুইটা গেল ॥  
 নবাব সাহেব যদি আইলা কীর্গাতে<sup>1</sup> ।  
 তবে সব বরগি জড় হইল কাটঞাতে ॥  
 আসাড় মাসের দেওয়া ঘন বরিষন ।  
 অজ্ঞা ভাসিয়া গঙ্গা ভরিল তখন ॥  
 গঙ্গা ভরিল যদি ইপার উপার ।  
 তবে বরগী লুটিবারে নাহি পাঞ আর ॥

<sup>1</sup> কীলা (পরিষৎ-সংস্করণ) ।

encamped in the localities of Kāt wā, Bhāosingh, Beḍa and Dāiñhāt. All the Zemindars of this area met Bhāskar as a result of which collectors were dispatched to the surrounding villages for realising the land revenues without fail.<sup>1</sup>

Now, let me say a word about Meer Habib. It was he who had laid the foundation of a bridge just at this time, with the help of forced labour. He brought all the big boats that he could lay his hands upon, and informed the people of both the banks of the river that these boats were requisitioned for work in the locality. He brought in bamboos from sundry villages and caused them to be spread upon the boats to form a bridge. Over them were fitted the grass mattings. Many baskets of earth were also spread over these boats. Thousands of horses were transported

Fol. five, obverse.

কাটএগা ভাওসিংহ বেড়া ডাইহাট দিয়া ।  
 চাইরদিগে বরগি ছায়নি কৈল গিয়া ॥  
 গ্রামে গ্রামে জত জমিদার ছিল ।  
 তারা সবে আসি ভাস্ককে মিলিল ॥  
 গ্রামে গ্রামে যত তাগিদার গেল ।  
 তারা সব জাইয়া খাজনা সাদিতে লাগিল ॥  
 এথা মির হবিব লইয়া কিছু সুন বিবরণ ।  
 ফরাস বন্দির <sup>২</sup> পর্তন করিলা তখন ॥  
 বড় বড় নৈকা যেখানে যত ছিল ।  
 বেগার খরিয়া সব নৈকা আনিল ॥

<sup>1</sup> The passage containing the incident, from the Nawab's reaching of Monkara in the early morning to the sending of tax-collectors to the villages by Zemindars, has not been translated by Prof. Samaddar.

<sup>2</sup> ফরাসবন্দি = পুলবন্দি ।

with the help of these boats. No sooner a bridge was constructed than the Bargis commenced plundering the whole of the locality.

Now hear something about Bhāskar's celebration of the Durga Pujah at Dāiñhāt. The local Zemindars were summoned by the Mahratta general. He said to them, "I wish to worship the goddess Durgā." Upon this they began to make preparations for the Pujah with much devotion. Some brought the potters for making the image of the goddess Durga while some engaged themselves in supervising the making of the image. When the potters had made the image, all delicious things were brought in the temple and dedicated to her. Thousands of goats and buffaloes were sacrificed at the

ইপারে উপারে লাহাস দিল তানাইয়া ।  
 নৌকা সব তার মধ্যে রাখিল বান্ধিয়া ॥  
 গ্রামে গ্রামে হইতে আনে জত বাস ।  
 নৌকার উপর বিছাইয়া বান্ধেন ফরাস ॥  
 ঘাস চাটাই তার উপরেত দিল ।  
 পাইছাএ পাইছাএ মাটি ফেলিতে লাগিল ॥  
 মাটি ফেলিয়া তবে করে বরাবর ।  
 হাজারে হাজারে ঘোড়া জাএ তার উপর ॥  
 ডাণ্ডিহাটের ঘাটে যদি পুল বাঁধা গেল ।  
 কত সত বরগী তারা লুটিতে চলিল ॥  
 এথা ভাস্কর লইয়া কিছু স্নান বিবরণ ।  
 জেরুপে ডাণ্ডিহাটে কৈলা পূজা আরস্তন ॥  
 তবে গ্রামে গ্রামে জত জমিদার ছিল ।  
 তা সভারে ডাক দিয়া নিকটে আনিল ॥  
 কহিতে লাগিল তবে তা সবার ঠাণ্ডি ।  
 জগতজননি মায়ের পূজা করিতে চাই ॥

altar of the goddess worshipped by Bhāskar Pandit. When Bhāskar was attending the religious function with so much pomp, Meer Habib started with a detachment of Bargis towards Futisāko. He forded the river during night with the help of the bridge and reached his destination (Futisāko) long before it was morning. At midnight there was a great uproar and the Nawab was informed of the approach of the Bargis at Futisāko. He at once commanded his herald to make his conveyance

এই কথা ভাস্কর কহিল তা সভারে ।  
 শ্রদ্ধা পাইয়া তারা সব উর্জোগ করে ॥  
 ঘটকপূর<sup>১</sup> আনে কেহ করিয়া সম্মান ।  
 আসিঞা প্রতিমা তারা করেন নিৰ্ম্মান ॥  
 এইরূপে কুমার প্রতিমা বানাইয়া ।  
 ভাস্করের ঠাই তারা গেল বিদায় হইয়া ॥  
 তারপর উপাদেএ সামগ্রী আইল জত ।  
 তার বাহাঙ্কিতে বোঝাএ কত শত ॥  
 ভাস্কর করিবে পূজা বলি দিবার তরে ।  
 ছাগ মহিষ আইসে কত হাজারে হাজারে ॥  
 এইমতে করে ভাস্কর পূজা আরম্ভন ।  
 এথা মির হবিব বরগী লইয়া করিল গমন ॥  
 তবে বরগী ফরাসবন্দিতে পার হইয়া ।  
 রাতারাতি ফুটিসাঁকো উঠিলেন গিয়া ॥  
 দ্বিতীয় প্রহর রাইতে হড়বড়ি হইল ।  
 ফুটিসাঁকো বরগি আইল নবাব শুনিল ॥  
 তবে নবাব সাহেব নকিব পাঠাএ ।  
 দ্বিতীয় প্রহর রাইতে নকিব শীঘ্র ধাএ ॥

<sup>১</sup> ঘটকপূর = কুস্তকার ।

ready at midnight. His herald no sooner informed the men of the intention of the Nawab with haste than all the troopers saddled their horses immediately and the commanders (the Jemadars) started to make preparations for a march. Many drums were beaten on the occasion. Mustafa Khan and Samser Khan were the two Jemadars under whom followed twenty thousand horse. Raham Khan and Karam Khan marched together with ten thousand horse with them. Ātāullā and Meer Jāfar likewise marched together with a cavalry fifteen thousand strong, while Umar Khan and Āsāmat (Asalat, Parishad ed. and Samaddar's ed.) Khan—both followed with five thousand horsemen. Thakur Singh and Bakis-Bahania—both started with forty thousand men of the transport service. Similarly Fateh Hāji and Chbedan Hāji <sup>1</sup>—both followed with thirty-five thousand

নকিব আসিঞা তবে বোলে বারবার ।  
 হুকুম নবাবের সোয়ারি করহ তৈয়ার ॥  
 এতেক কহিল জদি নকিব আসিয়া ।  
 তবে সব ঘোড়ায় জিন দিল চড়াইয়া ॥  
 একে একে জমাদার লাগিল সাজিতে ।  
 ডঙ্কা নাগরী কত লাগিল বাজিতে ॥  
 মুস্তাফা খাঁ সমসের খাঁ দুই জমাদার ।  
 জার সঙ্গে যায় ঘোড়া বিস হাজার ॥  
 রহম খাঁ করম খাঁ দুই জনাতে জাএ ।  
 দশ হাজার ঘোড়া জার সঙ্গে ধাএ ॥  
 আতউল্লা মিজাফর দুইজনা সাজিল ।  
 পোনের হাজার ঘোড়া সঙ্গে চলিল ॥

<sup>1</sup> Sedan Hazi—Samaddar.



carriers.<sup>1</sup> With sixty thousand horse and a lakh and a half carriers, the Nawab reached Tarakpur. As soon as the Nawab reached this place, the Bargis at sight of such a vast army recoiled, turned back and eventually retreated in fear. The Nawab's troops lost no time in pursuing them. There was a detachment of the Bargis stationed at Plassey. When they heard of the approach of the Nawab, they lost no time in beating a hasty retreat. In no time the Bargis crossed the bridge and destroyed it, to prevent further pursuit.

উমর খাঁ আসামত দুইজনেতে গেল ।  
 পাঁচ হাজার ঘোড়া সঙ্গে কইরা নিল ॥  
 ঠাকুর সিংহ জাএ আর বক্সি বহনিয়া ।  
 চল্লিশ হাজার বহনিয়া সঙ্গেতে করিয়া ॥  
 ফতে হাজি ছেদন হাজি দুই জনাতে গেল ।  
 পেএত্রিশ হাজার বহনিয়া সঙ্গে চলিল ॥  
 সাইট হাজার ঘোড়া ডেড়লাক বহনিয়া ।  
 তারকপুর আইলা নবাব এত ফৌজ লইয়া ॥  
 যেইমাত্র নবাব সাহেব তারকপুর আইল ।  
 ফৌজের ধমক দেইখা বরগি পিছাইল ॥  
 তবে বরগি পিছে দিয়া শীঘ্র চইলা জাএ ।  
 নবাব সাহেবের ফৌজ পিছে পিছে ধাএ ॥  
 পলাসিতে জত বরগির থানা ছিল ।  
 নবাব সাহেবের নাম স্তইনা অমনি পণাইল ॥  
 সিন্ধগতি আসি বরগি পুলে পার হইল ।  
 পার হইএণ পুল তবে কাটিএণাত দিল ॥

<sup>1</sup> Labourers according to Samaddar. The translation of the lines have been omitted by Samaddar.

<sup>2</sup> বক্সি (বকিস, বক্সি) বহনিয়া, Leader of the labour corps—Samaddar.

The Nawab reached Rahanpur by a night-march from Tarakpur and saw the camp of the Bargis, at Kātawā on the other side of the river. Here the Nawab pitched his tent placing the gunson all sides of the encampment. From this place he wrote to Purnea and Patna for help and sent two messengers to the rulers of those two places. On receipt of information from the Nawab, Jayandi (*i.e.* Jainuddin) Ahammad Khan marched from Patna with twelve thousand horse. The Nawab of

Fol. five, reverse.

Purnia also came to help the Nawab of Bengal with five thousand horse. Jayandi Ahammad Khan advised the Nawab Aliverdy to kill Bhaskar before the Pujah. The Nawab replied, "Let the last day (the Bejoyā Dasami) of the Durgā Pujah festival be over and by that time let the water

এথা নবাব রাতারাতি আইল রহনপুরে ।  
 দেখে বরগির ছাউনি কাটএগাত উপরে ॥  
 রহনপুরে নবাব সাহেব মোরচা দিল ।  
 চতুদ্দিগে তোপ খা রুপিয়া রাখিল ॥  
 পূরনিয়া পাটনাএ লেখিলেন খত ।  
 চলিলা দুইজঁনা শুইনা হকিকত ॥  
 হেথা জয়ন্দি আহাম্মদ খাঁ আইলা পাটনা হইতে ।  
 বার হাজার বোড়া ফৌজ লইয়া সাথে ॥  
 নবাব বাহাদুর আইলা পূরনিয়া হতে ।  
 পাচ হাজার ফৌজ সেহ লইয়া সাথে ॥  
 তবে জয়ন্দি আহাম্মদ বোলে নবাবকে ।  
 পূজা না হৈতে আগে মার ভাস্করকে ॥  
 নবাব বোলে আগে দসরা জঁউগ ।  
 চাইর দিকে জল কাদা সকলি সুখাউগ ॥

of the rainy season also subside allowing the land to dry." On hearing the opinion of the Nawab Jayandi Ahammad Khan said,—“What advantage will you derive if the water subside? Rather it will help the Bargis to pillage and sack the country all around. Let me bring the army across the river with the help of boats, so that your troops may make a surprise attack and kill the Bargis in course of the night.” While Jayandi Ahammad Khan and the Nawab were discussing about the ways and means to rout the Bargis, Meer Habib of Bhaskar's army accomplished something which is worth noticing.

Meer Habib arranged the big guns in rows and brought some sloops from Hooghly. Then the gunners suddenly opened fire from their battery and the balls

এত যদি নবাব বুলিলা তার তরে ।  
 জয়ন্দি আহাম্মদ খাঁ বোলে নবাবেরে ॥  
 জল কাদা শুকাইলে বরগির হবে বল ।  
 চতুর্দিকে লুটিবে পোড়াবে সকল ॥  
 ফৌজ পার কইরা দি নৌকায় করিয়া ।  
 রাতারাতি যেন বরগী মারে গিয়া ॥  
 জয়ন্দী আহাম্মদ নবাব এই মনস্থবা করে ।  
 মির হবিব লইঞা কিছু শুন তার পরে ॥  
 বড় বড় কামান আইনা থুইলা থরে থরে ।  
 লুগলি হইতে স্লুফ আনে তার পরে ॥  
 তবে গোলন্দাজে গোলা দাগিতে লাগিল ।  
 মোরচা ছেদিয়া গোলা ফৌজে পড়িল ॥  
 জেই মাত্র গোলা আইসা ফৌজে পৈল ।  
 তখন নবাব সাহেব অমনি পিছাইল ॥

fell on the troops of the Nawab so incessantly that he was at last compelled to retreat. In course of the cannonade a gun on board a sloop gave way and in bursting killed some among a group of men who happened to surround it. Eventually both the cannon and the sloop upon which it was placed were lost in the river. This untoward event led Meer Habib to seriously ponder over his perilous situation. He realised that in the circumstances it would be impossible to gain victory. He said within himself, "I made such excellent preparations and still I fail to win victory." This to him was ominous. Just at this time the sun was going down and the evening was fast approaching.

Now, hear something about the Nawab. A messenger picked up the information and conveyed it to the Nawab that a cannon of the enemy (which was playing havoc in the Nawab's ranks) had burst. This infused courage in the Nawab and he issued a general order to his entire army to advance. Those who fell behind

গোলা দাগিতে কামান গেল ফুইটা ।

সুলুফ ডুবিল তলা তার ফাইটা ॥

দশ বিস লোক তারা নিকটে ছিল ।

কামান ফাটীয়া দুই চাইর জনা মইল ॥

সুলুফ কামান যদি দুই তবে গেল ।

শুনিয়া মির হবিব তবে ভাবিতে লাগিল ॥

ফতে নাই নাই বলে বারে বারে ।

এতেক উর্জোগ করিলাম নারিলাম জিনিবারে ॥

সূর্য্য অস্ত গেল সন্ধ্যা হইল তখন ।

এথা নবাব লইঞা কিছু সুন বিবরণ ॥

সম্বাদ লইয়া হরকারা আইলা হাইটা ।

কহিল নবাবে কামান গেল ফাইটা ॥

returned and each soldier duly joined his section. The torches were lighted and the 'Barkandaj' troop who were lagging behind rejoined their respective sections in no time. The army of the Nawab opened fire which gave out a tremendous sound as thousands of fire-arms of every description were unloaded simultaneously. The Bargis witnessed from the opposite bank the sudden activity of the Nawab's army, remaining themselves inactive all the while. At this stage Jayandi Ahammad Khan came to Uddharanpur and constructed a bridge of boats. He brought with him expert boatmen and with the help of their Pāteli boats (which he tied two and two) transported the army of the Nawab to Uddharanpur. The whole army thus lay encamped on the bank of the Ajaya. Ten thousand soldiers were silently conveyed from one bank

এতেক শুনিয়া নবাবে হৈল বল ।  
 হুকুম করিলা ফৌজে আউগাউক সকল ॥  
 জত লস্কর তারা পিছে হইটা ছিল ।  
 আপন আপন মোবাচাএ সভাই আইল ॥  
 তবে বল মহাতাব সব জালিয়াত ছিল ।  
 বরকন্দাজের পরা মোরচাএ লাগিল ॥  
 হাজারে হাজারে আওয়াজ হএ একিবারে ।  
 ডাড়াইয়া বরগি সব দেখে উপারে ॥  
 এই মতে নবাবের ফৌজ আছে বরাবরে ।  
 এথা জয়ন্দি আহাম্মদ খাঁ আইলা উদ্ধারণপুরে ॥  
 বড় বড় পাটেলি সাথে আইসা ছিল ।  
 জুড়িন্দা বাধিয়া গুদারা লাগাইল ॥  
 উদ্ধারণপুরে জত ফৌজ পার কৈলা ।  
 যজ্ঞের ধারে আইসা সব দাড়াইলা ॥

to the other, of the rivers Ajaya and Hooghly in this way. Ratan Hājāri (literally leader of a thousand men) with twenty-two hundred men were on these boats of Patali type. But as these were overloaded, the bottom of them gave way just in the middle of the river Ajaya and sank. The boatmen were drowned and there was much confusion and noise among the troops which broke the secrecy of the Nawab's movements.<sup>1</sup>

Information rapidly spread in the Maratha camp about this disaster in the Nawab's army, on the other side of the river. The news that the Moghuls were coming to attack, also speedily circulated all around the

পুনরপি জুড়িন্দা আইনা লাগাইল ।  
 দশ হাজার ফৌজ নিসব্দে পার হইল ॥  
 বাইস সও লোক সূদ্ধা রতন হাজারি ।  
 পাটেলির উপরে তারা সভে চড়ি ॥  
 যেই মাত্র পাটেলি আইল মধ্যখানে ।  
 তলা কাটীয়া ডুবিল সেইস্থানে ॥  
 পাটেলি ডুবিল ফৌজে হইল কলরব ।  
 উপারে বরগীর ফৌজে জানিল সব ॥  
 মোগল আইল, আইল পইল হড়বড়ি ।  
 তখন ষোড়ায় চড়িয়া বরগি জাএ দউড়া দউড়ি ॥

<sup>1</sup> Grant Duff's estimate of loss is fifteen hundred men and not twenty-two hundred men. Thus, "Before the rivers had fallen, he prepared a bridge of boats, which in the night, he threw first across the Hooghly, and then over the Adjee, which enabled him to gain the opposite bank, although in consequence of a break in the fastening which had laced the boats together, fifteen hundred men were plunged in the Adjee, and totally lost, before the accident was discovered." Grant Duff's *A History of the Mahrattas*, Vol. 2, p. 13.

camp and they lost no time in hurriedly mounting their horses to fly in hot haste. This example was first set by the men of the transport service. Being panic-stricken the Bargis shared each of their horses jointly and were compelled to leave many articles behind. Bhāskar had only completed the 'Saptami' and 'Astami' Pujas when he was compelled to abandon further activities and flee in a hurry leaving the image of Durga behind, before the Puja was finished. The sweets that were left there were afterwards looted by the carriers. The goats and the buffaloes that remained were also seized by them. When these men were plundering the Maratha camp, Bhāskar, the leader of the Maratha army, was retreating with his whole force. It was when Bhāskar had gone a long way that Jayandi Ahammad was apprised of this

বরগির লস্করে জদি পাইল হড়বড় ।  
 হেনকালে বহইনাতে ধরিল ডেহড় ॥  
 এক এক ঘোড়ায় দুই দুই বরগি চড়িয়া ।  
 দ্রব্য সামগ্রী কত জাএ ফেলাইয়া ॥  
 সপ্তমী অষ্টমী দুই পূজা করি ।  
 ভাস্কর পলাইয়া জাএ প্রতিমা ছাড়ি ॥  
 মিষ্টান্ন সামগ্রী যত ছিল কাছে ।  
 বহনিয়া লুটিতে লাগিল তার পাছে ॥  
 ছাগ মৎস্য মহিষ জাহা যত ছিল ।  
 বহনিয়া আসিয়া সব লুটিতে লাগিল ॥  
 এইমতে সামগ্রী লুটে বহনিয়া ।  
 হোতা ফৌজ লইয়া ভাস্কর গেল পলাইয়া  
 ভাস্কর পলাইয়া যদি গেল অনেক দূরে ।  
 জয়ন্দি আহাম্মদ থাঁ সুনিল তার পরে ॥

fact. At this good news the ' Nahabat ' music on horse-back was being played merrily for some time. Distribution of alms to the Fakirs on a liberal scale also continued likewise.

Folio six, obverse.

Bhāskar retreated in the month of Aswin, but returned forthwith in the month of Chaitra Just after his return Sirdar Bhāskar commanded his army to kill with their swords one and all—whether men or women—that might fall in their way. On this express command of their chief, the Bargis began to plunder all around and to shout for murder. Hundreds of Brahmins, Vaisnavas, and the Sannyasis—even the cows and women not excepted—were foully murdered by them.

Thousands were ruthlessly and indiscriminately killed in this manner, and the extreme misery of the people made the goddess Pārvati (Durgā) very angry. She

মাদিয়ানা নহবদ কত বাজে থরে থরে ।  
 ফকির ফুকুরাকে খএরাত কত করে ॥  
 আশ্বিন মাসে ভাস্কর গেল পলাইয়া ।  
 চৈত্রমাসে পুনরুপি আইল সাজিয়া ॥  
 জেই মাত্রে পুনরুপি ভাস্কর আইল ।  
 তবে সরদার সকলকে ডাকিয়া কহিল ॥  
 স্ত্রী পুরুষ আদি করি যতেক দেখিবা ।  
 তলোয়ার খুলিয়া সব তাহারে কাটিবা ॥  
 এতেক বচন জদি বলিল সরদার ।  
 চতুর্দিকে লুটে কাটে বোলে মারমার ॥  
 ব্রাহ্মণ বৈষ্ণব যত সন্ন্যাসী ছিল ।  
 গো হত্যা স্ত্রী হত্যা সত সত কৈল ॥  
 হাজারে হাজারে পাপ কৈল দুর্ন্যতি ।  
 লোকের বিপত্য দেখি রুষিলা পার্বতী ॥



disapproved of the conduct of the Bargis and requested the God Pasupati (Siva) to kill such a devil of a man (Bhāskar). The miscreant killed the Brahmins and the Vaisnavas without compunction. The goddess could not bear such a sight and therefore her anger was roused. All the female attendants of the goddess—the Bhairabis and the Yoginis—who remained there stood with folded palms. The goddess Durga said, “Hear me, O Bhairabis, set your faces against Bhāskar and favour the Nawab henceforth.” So saying the goddess left the place.

Now listen, my readers, how Bhāskar died. When Bhāskar reached Katwa, the Nawab’s camp was at Monkarā. The Nawab’s presence made the place bustle with din and noise. The betel-leaf sellers were busy hawking their article. The grocers and the banias also accompanied the Nawab. His army was counted at this place.

পাপিষ্ঠ মারিতে আদেশিলা পসুপতি ।  
 ব্রাহ্মণ বৈষ্ণব হত্যা কৈল পাপমতি ॥  
 ব্রাহ্মণ বৈষ্ণবের হিংসা দেখিবারে নারি ।  
 এতেক কহিয়া তবে রুসিলা শঙ্করী ॥  
 ভৈরবি জোগিনী জত নিকটে ছিল ।  
 জোড়হস্ত কৈরা তারা ছমুতে ডাড়াইল ॥  
 তবে দুর্গা কহে সুন যতেক ভৈরবী ।  
 ভাস্করকে বাম হইয়া নবাবকে সদয় হবি ॥  
 এতেক বলিয়া দুর্গা করিল গমন ।  
 এখন জেরুপেতে ভাস্কর মৈল সুন বিবরণ ॥  
 ভাস্কর পণ্ডিত যদি আইল কাটঞাতে ।  
 সুনিয়া নবাবের ডেরা পইল মোনকরাতে ॥

Now hear something about Bhāskar. Ali Bhāi addressed him by saying, “How many times will you be coming to Bengal in this way ? Forbid your troops from plundering the villages any more and let me go to the Nawab to negotiate a treaty.” Bhāskar gave his assent to this proposal and further instructed him to meet the Nawab after keeping himself well on guard. On this Ali Bhāi took with him a detachment of twenty-five horse and reached Monkarā.<sup>1</sup> On arriving at Futi-sako Ali Bhāi sent an agent to interview the Nawab. On being presented to him this man said that Ali Bhāi

পান চাই ধুম পইল সহরেতে ।  
মুদি বানিয়া চলে নবাবের সাথে ॥  
মোনকরাতে নবাবের ফৌজ হইল স্ফূর্ত ।  
ভাস্কর লইয়া কিছু শুন তবে আর ॥  
তবে আলি ভাই বলে ভাস্করের তরে ।  
এইরূপে কতবার আসিবা বারেবারে ॥  
ফৌজকে মানা কর গ্রাম লুটিতে ।  
আমি জাইয়া বন্দোবস্ত করি নবাবের সাথে ॥

<sup>1</sup> S. Mutkherin gives some details about it and mentions that the camp of the Nawab Aliverdy Khan was originally at Amani-gundj and not at Monkarā whither he shifted only to meet Bhāskar Pandit :—

“At last after many reciprocal oaths had been exchanged, it was agreed that Bha-sukur with all his general officers should make a visit to the Viceroy of Bengal, in the plain of Moncarah. The latter was then encamped at Amani-gundj, as was Bha-sukur at Catwa, which was ten cosses farther. Moncarah having been agreed to by both parties as being at a middle distance from the two camps so soon as the day of interview became known, a magnificent tent of large dimensions was pitched there in the open plain ;.....”

S. Mutkherin, Vol. I, p. 433.

had come from the Maratha camp and awaiting for an interview with the Nawab. Aliverdy Khan gave his permission thus :—“ Inform him I agree, but on condition that he will come to me unarmed.” The agent duly informed Ali Bhāi of this condition which the latter agreed to conform. So Ali Bhāi with twenty-five horsemen (but all disarmed to) approached the Nawab who accosted him and said—

“ What makes you to come here ?” Ali Bhāi—“ To settle terms.”

*The Nawab*—“ I hear Bhāskar will himself meet me. When previously he had surrounded me at Burdwan, I

এতেক সুনীয়া ভাস্কর কহিলেন তাকে ।

সাবধান হইয়া তুমি মিল নবাবকে ॥

তবে আলি পঁচিশ ঘোড়া লইয়া সাথে ।

নবাবের সাথে মিলিতে আইল মোনকরাতে ॥

ফুটিসাঁকো যদি আলি ভাই আইলা ।

সেইখানে থাকিয়া উকিল পাঠাইলা ॥

উকিল আসিয়া তবে কহে নবাবেরে ।

আলি সাহেব আইসে নবাব সাহেবকে মিলিবারে ॥

তবে নবাব বোলে বোল যাইয়া তারে ।

হাতিয়ার থুইয়া আইসা মিলুক আমারে ॥

উকিল আসিয়া তবে কহিলেন তাকে ।

হাতিয়ার থুইয়া যাইয়া মিল নবাবকে ॥

আলি ভাই যাইলা তবে হাতিয়ার থুইয়া ।

পঁচিশ ঘোড়া সূদ্ধা মিলিল আসিয়া ॥

নবাব বোলে তুমি আইলা কি কারণ ।

আলি ভাই বোলে বন্দোবস্তের কারণ ॥

ভাস্করের সাথে বিবাদ কেনে কর ।

দুইজনাতে মিইলা কিছু বন্দোবস্ত কর ॥

sent to him my agent for similar purposes. If he had a mind to make peace with me he would certainly have sent his own representative to me at that time. I regret he means otherwise. He sacked and pillaged my territory over and over again. Now what terms of compromise does he propose for an amicable settlement ?”

*Ali Bhāi*—“Let bygones, be bygones. You need not now rake up the past any more. Please grant me two of your chiefs with me and I will bring Bhāskar to you at this place.”

The Nawab accordingly ordered two of his principal officers to accompany Ali Bhāi and bring Bhāskar before him. So the two Sirdars Janakiram and Mustafa Khan

তবে নবাব সাহেব বুলিলেন তারে ।  
 ভাস্কর আসিয়া নাকি মিলিবে আমারে ॥  
 জে সময় পূর্বে ঘেইরাছিল বর্দ্ধমানে ।  
 সে সমএ উকিল আমি পাঠাইলাম তার স্থানে ॥  
 বন্দোবস্ত করিতে যদি থাকিত তার মনে ।  
 সেই সমএ উকিল পাঠাইত আমার স্থানে ॥  
 মুলুক পোড়াইল লুটিল বারবার ।  
 কাঁউয়ার সঙ্গে বন্দোবস্ত করিব আর ॥  
 আলি ভাই বোলে যাহা হবার তা হৈল ।  
 কদাচিত উকথা মুখে আর না বুলিল ॥  
 দুই সর্দার তুমি দেহ আমার সনে ।  
 ভাস্করকে মিলাইয়া আনি এই স্থানে ॥  
 তবে নবাব সাহেব কহিল দু জনারে ।  
 আলি ভাই এর সঙ্গে যাইয়া আন ভাস্করে ॥  
 জানকীরাম মুস্তফা থাঁ দুজনে চলিল ।  
 কাটোঞায় যাইয়া ভাস্করকে মিলিল ॥

started and duly reached Bhāskar's camp at Katwa. Ali Bhāi reported to Bhāskar of the arrival of Janakiram and Mustafa Khan as messengers coming from the Nawab to accompany Bhāskar in his interview with the Nawab.

Fol. six, reverse.

At this news Meer Habib gave his opinion that on no account Bhāskar should visit the camp of the Nawab. "Please consider about the treacherous plans of the Moghuls," said Meer Habib. "If you listen to my advice, please do not go." At this Mustafa Khan said, "Why do you say so? We two (Mustafa Khan and Janakiram) shall take him to the Nawab's camp and shall duly escort him back to this place after making necessary preparations for his journey. If you still hesitate then let me touch my sacred Koran and swear about it."

ভাস্করকে আলিভাই কহিতে লাগিল ।  
 মুস্তফা খাঁ জানকীরাম দুইজনাএ আইল ॥  
 নবাব সাহেব পাঠাইল দুই জনারে ।  
 সঙ্গে কইরা লইয়া জাইয়া মিলাবে তোমারে ॥  
 এতেক শুনিয়া তবে মির হবিব কয় ।  
 কদাচিত ভাস্করকে জাইতে মত নএ ॥  
 মির হবিব কিছু তবে কহে ভাস্করে ।  
 কদাচিত জাইয়া তুমি না মিল তাহারে ॥  
 মোগলের ফের তুমি করিবা মোনসুবা ।  
 আমার কথা শুন জদি কদাচিত না যাবা ॥  
 তবে মুস্তফা খাঁ কহিতে লাগিলা ।  
 এতেক কথা তুমি কেনে কহিলা ॥  
 আমরা দুই জনাএ তবে সঙ্গে কইরা নিব ।  
 বন্দোবস্ত কইরা পুন এইখানে আনিব ॥

What he said he did and Janakiram also took oath by touching the sacred water of the Ganges and the holy symbol, the Sālgrām. Janakiram said to Bhāskar,—“Please do not be afraid of any foul stratagem. We two shall again bring you back here hale and hearty.” When Bhāskar heard Janakiram, he replied, “All right, I agree.” On this Mustafa Khan said,—“Then let us start immediately.” Bhāskar said, “How many armed men shall I take with me as my body-guard ?”

Janakiram replied, “As many as you like.” Ali Bhāi said, “There is no need of taking any guard at all. However, take only ten or twelve men with you.” At the time of one’s fall, people forget what is right and what is wrong. So Bhāskar was allured by the persuasive tongue of Ali Bhāi.

On Friday, the first of Baisākh, Bhāskar started to meet the Nawab. Only twenty-two men including Ali

কিছু কিন্তু জদি মনে কর তুমি ।  
 কোরাণ দরমান কইরা কিরা খাইছি আমি ॥  
 জানকীরাম কহে গঙ্গাজল সালগ্রাম লইয়া ।  
 কিছু চিন্তা নাই তোমাকে আনিব মিলাইয়া ॥  
 এতেক শুনিয়া ভাস্কর বোলে ভাল ভাল ।  
 মুস্তাফা খাঁ বোলে তবে শীঘ্র কইরা চল ॥  
 ভাস্কর বোলে সাথে ফৌজ নিব কত ।  
 জানকীরাম বোলে তোমার মনে লয় জত ॥  
 আলি ভাই বোলে ফৌজে নাহি কাম ।  
 জন দশ বারো লোক সঙ্গে কইরা জান ॥  
 মিত্তুকাল হইলে যেন মতিচ্ছন্ন পাএ ।  
 আলি ভাইএর কথায় ভাস্কর ভুইল য়াএ ॥

Bhāi accompanied the Maratha chief. That night Bhāskar halted at Plassey and resumed his march for the Nawab's camp the next morning.

Now, hear what passed in the camp of the Nawab. A Harkarā (courier) reported to the Nawab that Bhāskar was coming. This piece of information led the Nawab to call in a council. Sirdar Sotābardār Khan (literally he who was in charge of the royal mace, the symbol of authority) stood in front of the Nawab and all the big Jemadars took their seats around him (the Nawab). It was the second day of Baisākh and Saturday. This was the day on which Bhāskar was presented before the Nawab. When Providence is adverse one's power of judgment becomes clouded. So Bhāskar forgot to bring his arms with him when he came to interview the Nawab.<sup>1</sup> As soon as

প্রথমে বৈশাখ মাস শুক্রবার দিনে ।  
 ভাস্কর চলিল মিলিতে নবাবের সনে ॥  
 আলি ভাই আদি করি বাইস জনা মাইল ।  
 পলাসি য়াসিঞা ভাস্কর ডেরায় থাকিল ॥  
 তার পরদিনে ভাস্কর করিল গমন ।  
 এথা নবাব লইয়া কিছু শুন বিবরণ ॥  
 হরকরা বোলে নবাবকে ভাস্কর যাইসে ।  
 এতেক শুনিয়া নবাব সভা কৈরা বৈসে ॥  
 সোটা বর্দার খা সর্দার নবাবের আগে ।  
 বড় বড় জমাদার বসিলা চাইর দিগে ॥  
 দুসরঞি বৈশাখ মাস শনিবার দিনে ।  
 ভাস্করকে লইয়া আইল নবাবের স্থানে ॥

<sup>1</sup> The assertion that Bhāskar interviewed Aliverdy unarmed does not tally with the version of Mutkherin. The Bengali poem

Bhaskar Pandit and the Nawab mutually met, the latter said :—

“ You plundered my territory again and again. At last it was due to Ali Bhāi that you now desire to come to terms.<sup>1</sup> When you had previously besieged Burdwan, I sent to you my agent (for an amicable settlement). If you were of the same mind with me you might have sent also your agent to me at the time.”

Ali Bhāi replied :—

“ What was done, was done. As Bhāskar Pandit has now himself approached you, it is proper to settle terms with him.”

বিধাতা বিপত্য হইল বুধ্য গুইলা গেল ।

হাতিয়ার থুইয়া আইসা নবাবকে মিলিল ॥

ভাস্কর পশ্চিৎ জদি মিলিল নবাবকে ।

ত্বরপরে নবাব কহেন কিছু তাকে ॥

and the Mutkherin both agree about the number of officers, *e.g.*, twenty-two, who visited Aliverdy. But Mutkherin further says that the number of men which actually accompanied Bhāskar was not twenty-two but fifty and adds a few lines by way of explanation, thus :—

“ At this moment about fifty officers that preceded Bha-sukur, having alighted, came within the tent, all armed, and this precaution of theirs was coloured by the pretence of their being intended to swear to the performance of articles of agreement, which they would do upon their sabres. Amongst these were two-and-twenty commanders of eminence and character ; the others were amongst those persons called Amnies in India, who on the others advancing, advanced likewise, but stopped within the tent-yard.

S. Mutkherin, Vol. I, p. 434.

<sup>1</sup> Prof. Samaddar's version is as follows :—“ You sent Ali Bhāi to settle with me.”



On this the Nawab smiled and asked the permission of those present to leave the Durbar for a little while.

That was the signal previously made known to all of the Nawab's party present there, and accordingly the Nawab left the place.

He did not turn up though a long time passed by. On this Bhāskar Pandit made a query to Mustafa Khan :—<sup>1</sup>

“Now two dandas (48 minutes) have elapsed since the Nawab had left us. It is now time for me to bathe and worship my tutelary deity.”

আমার মূলুক তুমি লুটিল। বারেবারে ।  
 বন্দোবস্ত করিতে পাঠাইলা আলি ভাইএর তরে ॥  
 যে কালে আসিয়া তুমি ঘেরিল। বর্ধমান ।  
 সে সমএ উকিল আমি পাঠাইলাম তোমার স্থানে ॥  
 বন্দোবস্ত করিতে যদি থাকিত তোমার মনে ।  
 সেই সময় উকিল তুমি পাঠাইতে আমার স্থানে ॥  
 তবে এতেক শুনিয়া ভাই আলি কহিল ।  
 এতদিন জাহা হবার তাহা হইল ॥  
 ভাস্কর পণ্ডিত যদি মিলে তোমার সনে ।  
 কিছু দিঞা বন্দোবস্ত কর ইহার সনে ॥  
 এতেক শুনিয়া নবাব কহিলেন হাসি ।  
 খানিক বিলম্ব কর লঘি কইরা আসি ॥  
 পূর্বে সভারি মনস্থ বা ছিল ।  
 সেই মনস্থ বাএ নবাব উঠা গেল ॥

<sup>1</sup> The Nawab's speech together with a few lines showing the designing attitude of the Nawab was not translated by Prof. Samaddar.

Mustafa Khan replied :—

“ Let us then all go together. We shall all return again by the last ‘Prahar’ (quarter) of the day.”

Mustafa Khan then rose up and seeing this Bhāskar Pandit also got up. No sooner had Bhāskar attempted to mount his horse than some one<sup>1</sup> from behind drew his sword and instantaneously cut him to pieces. Just then and there a scuffle ensued and the Bargis who came there were killed to a man.

After this occurrence, the Nawab heard everything in detail and his joy knew no bounds. There was music

নবাব উঠিয়া গেল হইল অনেকক্ষণ ।  
 ভাস্কর পণ্ডিত কিছু কহেন তখন ॥  
 দুই ডগু বিলম্ব হইল কহে মুস্তাফার ঠাই ।  
 এখন তবে আমি সান পূজাএ জাই ॥  
 মুস্তফা খাঁ বোলে চলো সভাই মিলে জাই ।  
 সে পহরিতে আসিব নবাবের ঠাই ॥  
 এতেক বুলিয়া মুস্তফা খাঁ উঠিল ।  
 তাহার দেখনে তবে ভাস্কর উঠিল ॥  
 জেই মাত্র ভাস্কর ঘোড়ায় চড়িতে ।  
 তলোয়ার খুলিয়া তখন মারিলেক তাথে ॥  
 সেইক্ষণে তবে ঘট্যাচট্টি হইল ।  
 জত জনা যাইসা ছিল সব জনা মইল ॥  
 তারপরে নবাব সাহেব সমাচার শুনে ।  
 সুনি যানন্দিত নবাব হইল সেই ক্ষণে ॥  
 সাদিয়ানা নহবৎ কত বাজিতে লাগিল ।  
 ফকির ফুকুরাকে খএরাত কত দিল ॥

<sup>1</sup> The author of S. Mutkherin gives the name as Mir-Cazem-Qhan.—S. Mutkherin, Vol. I, pp. 434-35.

of the 'Sādiānā Nahabat' (i.e., music of the mounted band). The Nawab made suitable gifts to Fakirs and sundry other people. Bhāskar was killed at Monkarā. The poet Gangaram here finished this part of his story in accordance with his plan.

(*The Mahārāṣṭra Parāṇa, First Canto, defeat of Bhāskar finished. Dated Saturday, the 14th Pousa, 1672 Saka, 1158 B.S.*)

মোনকরা মোকামে জদি ভাস্কর মইল ।

মনসুবাদ উড়াইয়া কবি গঙ্গারাম কইল ॥

ইতি মহারাষ্ট্র পুরাণে প্রথম কাণ্ডে ভাস্কর পরাভব । সকাব্দ ১৬৭২,  
সন ১১৫৮ সাল ॥ তারিখ ১৪ পৌস, রোজ শনিবার ॥

THE END.

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## ভূমিকা

ভারতীয় আর্থ্যসভ্যতার অনুমোদিত বিচারবিষয়ে অবশ্যাপেক্ষণীয় প্রমাণের সহিত বর্তমান ভারত-সম্রাটের অনুমোদিত ভারতীয় হিন্দু সাধারণের বিচারোপযোগী প্রমাণ-আইনের তুলনা রাখিয়া প্রবন্ধ লিখিতে হইলে— প্রথমেই জানিতে হইবে ব্যবহারশাস্ত্র কাহার নাম ; এবিষয়ে কাত্যায়ন ঋষি বলিয়াছেন—

বি-উপসর্গের অর্থ বলতর, অব-উপসর্গের অর্থ সন্দেহ, এবং হ্র-ধাতুর অর্থ দূরীকরণ। সূতরাং যাহার দ্বারা নানা সন্দেহ বিদূরিত হয় তাহারই নাম ব্যবহার অর্থাৎ সন্দিকের বিচার, তদ্বিষয়ক শাস্ত্রই ব্যবহারশাস্ত্র।

সকল দেশের প্রাচীন ইতিহাস পর্যালোচনা করিলেই দেখা যায় যে, রাজার প্রধান কর্তব্য অপরাধীকে দণ্ড দেওয়া। সকল দেশে সকল সময়েই রাজা অপরাধীকে দণ্ড দিয়া আসিতেছেন।

মানুষের সমাজ বাঁধিয়া বাস করা যেমন স্বাভাবিক ধর্ম, তাহাতে শৃঙ্খলা ও শান্তির তেমনি আবশ্যক। অপরাধী দণ্ডিত না হইলে সমাজের শাস্তি ও শৃঙ্খলা ভাঙ্গিয়া যায়, দেশের শান্তি ও শৃঙ্খলার জন্মই অপরাধমাত্রের দণ্ডবিধি ব্যবহৃত হইয়া থাকে। সকল সভ্যদেশেই মানুষের সাধারণ ধর্মের বিরুদ্ধে অনুষ্ঠিত কার্যাবলী অপরাধের মধ্যে গণিত হইয়া আসিতেছে। এমন কি, যাহা অপেক্ষা প্রাচীন পুস্তক পৃথিবীতে নাই, সেই ঋগ্বেদের মধ্যেও ঐরূপ বিরুদ্ধ কার্যকারীকে দোষী বলিয়া উল্লেখ ও তাহার শাসনের ব্যবস্থা পাওয়া যায়।

রাজশাসনের প্রভাবে মানুষের স্বাভাবিক ঔদ্ধত্য, দাস্তিকতা, ধূর্ততা ও লোভ প্রভৃতি নিকৃষ্ট ভাব সকল বিলোপ পাইয়া থাকে, এবং দৈববিপদ স্বতীত অশ্রু বিপদের মুখ কাহাকেও দেখিতে হয় না।

বিপদ আসিলে বিপদের সাহায্যের নিমিত্ত প্রতিবাসীরা যে আত্মোৎসর্গ করে তাহার মূলেও ধর্মবিশ্বাসের সঙ্গে সঙ্গে রাজশাসনের প্রভাব নিহিত আছে।

সকলের প্রতি সমদর্শনই রাজার কর্তব্য, সেইজন্য বিচারকার্যে বিধিবদ্ধ নিয়ম রাখা হয়। অপরাধ করিলেই দণ্ড হইবে, দণ্ডও দণ্ডনীতির অনুসারেই হইবে—এই বিধি প্রাচীন ভারতের সভ্যতায় উৎকর্ষ পাইয়া ছিল।

ঋগ্বেদের দশম মণ্ডলের ১৭ সংখ্যক সূক্তে প্রথম রাজাকে অভিষেক করার কথা পাইতেছি, এবং চতুর্থ মণ্ডলের ৪৩ সংখ্যক সূক্তে দেখা যায় যে, দুর্গই রাজার পুত্র পুরুকুৎস অপরাধী হওয়ায় কারারুদ্ধ হইলেন, তাহাতে রাজ্য অরাজক হইয়া পড়িল। তখন তদীয় মতিষী সপ্তর্ষিদিগের সাহায্যে যজ্ঞানুষ্ঠান করিয়া ত্রসদস্য নামে এক পুত্র লাভ করেন ও তাকে রাজা করাতেই রাজ্যের শৃঙ্খলা রক্ষিত হইয়াছিল।

রামায়ণ ও মহাভারত পর্যালোচনা করিলেও এই সকল নিদর্শন প্রচুর পরিমাণে পাওয়া যায়। সে সময়ে ভারতের সভ্যতা চরম উৎকর্ষ লাভ করিয়াছিল। বর্তমানে ভারতের ন্যায় সকল সভ্যদেশেই বিচার-কার্যের উপযোগে নিবদ্ধ বিধি-নিষেধাত্মক ব্যবহারশাস্ত্র ( আইনের গ্রন্থ ) প্রচলিত হইয়াছে।

রাজ্যের শৃঙ্খলারক্ষার উপযোগে নিবদ্ধ ভারতীয় ব্যবহারশাস্ত্রের যশোগৌরব ভূমণ্ডলের মনীষিবর্গের কাছে পারিজাতকুসুমের মৌরভের ন্যায় আশ্বাদনীয় হইয়া আছে; এবং ভারতীয় জ্যোতিঃশাস্ত্রের মত এই ব্যবহার-শাস্ত্রবিষয়িণী দাঁপ্তিময়ী কোমুদীও সমগ্র ভূমণ্ডলবাসী প্রজাচক্ষু মনীষিগণের ধীষণার সিংহাসনকে সমুজ্জ্বল করিয়া রাখিয়াছে।

ইহাতে সমাজরক্ষার উপযোগে যেরূপ মনীষাজ্যোতি প্রদীপ্ত আছে, তাহাতে ভারত উচ্চতর আসনে অধিরূঢ় ও ধন্য হইয়াছে বলিতে পারিলেও গৌরব অমুভব করা যায়। ভারতের অসামান্য প্রতিভায় দেদীপ্যমান সেই সুখময় যুগের অবসান হইলেও শাস্ত্ররাশি তাহার স্মৃতিকে বহন করিতে থাকায় এখনও ভারতে আর্য্যজাতির বৈশিষ্ট্য অক্ষুণ্ণ রহিয়াছে বলিয়া মনে হয়। বিশেষতঃ ব্যবহারশাস্ত্র নিঃস্বার্থপরতার দাঁপ্যমান দৃঢ়ভিত্তি, ত্যাগের মূলবৃক্ষ, সমাজরক্ষার স্তম্ভ, মর্যাদার সেতু এবং শাস্তির প্রস্রবণ।

এক কথায় বলিতে হইলে, এই ব্যবহারশাস্ত্রই মানুষের কল্যাণবৃক্ষ ও নির্বাধে জীবনযাত্রা-নির্বাহের সুখাময় হ্রদ।

ব্যাপকভাবে অনুশীলন করিলে ইহাই বুঝা যায়, দণ্ডনীতিস্বরূপ ব্যবহার-শাস্ত্র লোকরক্ষাকল্পে প্রণীত। ইহার প্রণেতা মনু, কাতায়ন, যাজ্ঞবল্ক্য প্রভৃতি মহাত্মারা অপ্রমাদী আপুজন, ইহাদের মধ্যে অনেকেই ঋগ্বেদের মন্ত্রদ্রষ্টা ব্রহ্মবিদ ঋষি।

যদিও ব্যবহারশাস্ত্রের সকল অবয়বের মূলভূত বেদভাগ বর্তমানে (বৃহত্তর বেদশাখা সকল বিলুপ্ত হওয়াতেই) অপরিজ্ঞাত হইতেছে, তথাপি অপ্রমাদি বাক্যের বেদমূলকতা অনুমান-সাহায্যেই সাধন করা হইয়া থাকে।

সে বিষয়ে আচার্য্য মাধব নিজে মীমাংসাবিদ গুরুর এই বাক্য বলিয়া দেখাইয়াছেন—বেদবিদেরা স্মরণ করিয়া স্বীকার করাতেই সংহিতা ও ধর্ম্মসূত্র-গুলির বেদমূলকতা হইয়াছে, সুতরাং ঐগুলি বেদের মত প্রমাণ।

প্রাচীন ভারতের ন্যায় সকল সভ্য দেশেই কোন্ অপরাধে কি দণ্ড হইবে তাহার একটা নিয়ম বাঁধিয়া রাখা হয়।

ইহার প্রথম উদ্দেশ্য প্রজার মধ্যে শান্তি ও শৃঙ্খলা রক্ষা করা, দ্বিতীয় উদ্দেশ্য একই অপরাধে একজনের অর্থদণ্ড অন্তর প্রাণদণ্ড না ঘটিয়া যায়। এক্রূপ না করিলে প্রজার মধ্যে ঘোর অসন্তোষবীজ রোপিত হইয়া সমাজ-রূপ মূলবৃক্ষের ধ্বংস হইতে পারে।

সুতরাং রাজকীয় দণ্ডবিধি দেশের সম্পূর্ণ শান্তির অনুকূল হইয়া মানুষের সুখবিধান করিয়াই আসিতেছে; ইহার আশ্রয়ে থাকিয়াই মানুষ শান্তিতে আছে, যদিও বৃষ্টিকাল হইতে এই এক অবাভিচারী নিয়মের পরিচয় ভারতীয় শাস্ত্রানুশীলনে ও সামাজিক সংসর্গে অবগত হওয়া যায় যে, জগতে মানুষের গুণের বা দোষের কোন কার্য্যই চিরদিন গুপ্ত থাকে না—একদিন না একদিন ঘটনাসূত্রের অনুসরণে তাহা প্রকাশ পাইয়া থাকে এবং কষ্ট তাহার ফলভোগ করে।

কিন্তু এই গুপ্ত অপরাধকারীর পরিণাম মন্দ দেখিবার প্রতীক্ষায় মানুষ থাকিতে পারে না, এক্রূপ প্রকাশকে “গাছে ফল”, “মেঘে জল” হওয়ার মত ভগবানের লীলা বলিয়া বিবেচনা করে। সেই বিশ্বাসের স্থান সমাজ নহে, সে বিশ্বাস ধরিয়া থাকিলে প্রতীকার বহুদূরে গিয়া পড়ে।



যখন স্বার্থের বশে শিক্ষিত জনেরও প্রভৃতি নিকৃষ্ট হইতেছে দেখা যায়, তখন অশিক্ষিত বা ক্রোধ-লোভাদির বশীভূত লোকেরা যে ঘৃণ্য ব্যবহার করিয়া বসিবে তাহাতে আশ্চর্য্য কি ?

তাই রাজার শাসনবাহি প্রজার আত্মত্যাগের সচুপায়রূপে সর্বদা দীপ্যমান আছে। মনু বলিয়াছেন, “দণ্ডঃ স্তপ্তেযু জাগর্তি” অর্থাৎ মানুষ নিদ্রিত হইলে তাহাকে রাজদণ্ডই রক্ষা করে এবং রাজার ঐ শাসনদণ্ড যে ভগবানেরই মূর্ত্তিবিশেষ তাহা গীতায় শ্রীমুখের বাক্যে পাওয়া যায় যে ‘দণ্ডো দময়তামস্মি’ অর্থাৎ আমি বিচারকদিগের কাছে দণ্ডরূপ মূর্ত্তিতে বিরাজ করি।

তাহারই জন্ত এই দণ্ডের প্রভায় সত্যের ভাণ থাকে না, কৃত্রিমতার আবরণ খুলিয়া যায়, অপরের অনিচ্ছাশঙ্কা বিদূরিত হইয়া থাকে। মনুই বলিয়াছেন—যদি দণ্ড না থাকিত তবে বলবানেরা দুর্ব্বলকে যাতনা দিত, কাক বজ্রহবি খাইত, কুকুর পায়স পান করিত, কেহই কাহারও প্রাধান্ত স্বীকার করিত না।

বৃহস্পতি আবার বলিয়াছেন—“স্মৃতির্বিনির্ণয়ং ক্রতে” অর্থাৎ সংহিতা প্রভৃতি অর্থশাস্ত্রই বিবাদের নির্ণয় করিয়া দেয়, স্ততরাং স্মৃতি-সংহিতাই বর্তমান প্রবন্ধের উপজীব্য।

যে সমুদয় ভারতীয় ব্যবহার-বিষয়ক পুস্তক হইতে প্রাচীনকালের ভারতীয় বিচারপদ্ধতির এবং যে সকল বর্তমান ইংরাজী আইন-পুস্তকের বিচার-পরিপাটীর পরিচয় লইয়া এই প্রবন্ধের গঠন করিয়াছি, তাহাদের মধ্যে কয়েকখানি প্রধান গ্রন্থের নাম ও তাহাদের সময়ের সংক্ষিপ্ত পরিচয় দেওয়া আবশ্যিক বিবেচনায় তাহা উল্লেখ করিতেছি—

মনুসংহিতা, যাজ্ঞবল্ক্যসংহিতা, নারদস্মৃতি, বৃহস্পতিসংহিতা, কাভ্যায়ন-স্মৃতি, শুক্লনীতিসার, কোটিল্যের অর্থশাস্ত্র, ব্যবহারমাতৃকা, মিতাক্ষরা, বসিষ্ঠ-স্মৃতি, মনুটীকা, ব্যবহারতত্ত্ব, দিব্যতত্ত্ব, দণ্ডবিবেক, বিবাদরত্নাকর, রামায়ণ, মেহান্তারত ; আর ইংরাজী—Evidence Act, Limitation Act এবং Civil Procedure Code এই কয়খানি গ্রন্থই উল্লেখযোগ্য।

ইহাদের অনেকগুলিরই রচনাকাল এখনও সিদ্ধান্তে উপনীত হয় নাই, সুক্ষ্ম গবেষণাধারা সময়ের যে আভাসমাত্র পাওয়া যায়, তাহাই

দেখাইতেছি। তবে একখণ্ড বলিয়া রাখি, ইহাদের কাল-আলোচনায় ক্ষেত্র-বিশেষে বৈদিক সূক্তও যেখানে অপেক্ষণীয় হইবে তাহার উল্লেখে বর্ণিত হইবে যে, তত্ত্ববেদাংশের সময়নির্দ্ধারণ আমাদের সম্যক্ সিদ্ধান্ত-সম্মত নহে, তবে প্রতীচ্য পণ্ডিতেরা যে মত গ্রহণ করিয়া গিয়াছেন শিক্ষিতগণের বিচার ও চিন্তার 'সৌকর্য্যের নিমিত্ত স্থানে স্থানে সেই ভাবেব অনুবর্তন করিতে বাধ্য হইয়াছি।

মনু—বহুপ্রাচীন, মনুর নাম ঋগ্বেদেও পাওয়া যায়; মনুসংহিতায় চার্ব্বর্ণা সমাজের উজ্জ্বল চিত্র প্রদর্শিত হইয়াছে।

বেদের পর ধর্ম্মসূত্রগুলির সমান আসনে মনুই বসিবার যোগ্য; সংসার-রক্ষার নিমিত্ত ভগবানই মনুরূপে আসিয়াছিলেন, ইহাই হিন্দুসাম্প্রদায়ের সাম্প্রদায়িক বিশ্বাস। সুতরাং মনুর কাল খৃষ্টাব্দের বহু সহস্র বৎসরের উপরে; এবং শারশর-সংহিতাতেও বলা আছে প্রতিকল্পে ব্রাহ্মা যেমন বেদ স্মরণ করেন তেমনি কল্পে কল্পে মনু মহাশয়ই ধর্ম্মাচার স্মরণ করিয়া আসিতেছেন।

পাশ্চাত্য পণ্ডিত বুজ্জার সাহেব বর্ত্তমান আকারের সংহিতাকে খৃষ্টপূর্ব দুইশত বৎসরের বলিয়াছেন, তাঁহার অভিপ্রায় বর্ত্তমান সংহিতায় প্রাচীন মনুর অনেক শ্লোকই আছে, তবে প্রাচীন সংহিতা আর মিলে না সুতরাং মনুর প্রাচীন সময় তাঁহার নিকট অনির্দ্ধারিত।

পাশ্চাত্য পণ্ডিতেরা বসিষ্ঠ ও কাত্যায়নের স্মৃতি যথাক্রমে খৃষ্টপূর্ব এক সহস্র বৎসরের ও আট শত বৎসরের অনূর্দ্ধকালীন বলিয়া নির্দেশ করেন; সে বিষয়ে শাস্ত্ররক্ষক ব্রাহ্মণেরা বিরুদ্ধবাদী, তাঁহাদের এই ভিন্নমত-পোষণের কারণ—বসিষ্ঠদেব বেদের মন্ত্রদ্রষ্টা ঋষি এবং রামায়ণে বর্ণিত ব্রাহ্মার মানসপুত্র, সুতরাং বসিষ্ঠ বহু প্রাচীন বলিয়াই তাঁহাদের ধারণা।

যাজ্ঞবল্ক্য ও নারদস্মৃতিসম্বন্ধে পাশ্চাত্য পণ্ডিতেরা ক্রমিক খৃষ্টীয় চারি শত ও পাঁচ শত অব্দের সমসাময়িক বলিয়া নির্দেশ করেন; শাস্ত্ররক্ষকেরা এই বিষয়েও ভিন্ন মত পোষণ করেন, কারণ তাঁহারা বলেন যে, যাজ্ঞবল্ক্য ঋষি উপনিষদে প্রধান ব্রাহ্মবাদিরূপে বর্ণিত এবং মহাভারতে উভয়কেই প্রধান জ্ঞানীর আসনে সম্মিবেশিত কল্পা আছে, সুতরাং উঁহারা মহাভারত-রচনার

পূর্বকালীন। মহামহোপাধ্যায় গণপতি শাস্ত্রী বাজবল্যকে কোটিল্যের পূর্ববর্তী ও খৃষ্টপূর্ব ষষ্ঠ শতাব্দীর স্মৃতিকাররূপে অভিপ্রায় প্রকাশ করিয়া গিয়াছেন। ৯

কোটিলীয় অর্থশাস্ত্র মৌর্য চন্দ্রগুপ্তের সময়ে খৃষ্টপূর্ব চারিশত বৎসরের কালে রচিত ইহা বহুবাদিসম্মত এবং বিশ্বাস্য।

বৃহস্পতি-স্মৃতি প্রভৃতিকে পাশ্চাত্য পণ্ডিতেরা খৃষ্টজন্মের পরে রচিত বলিয়াছেন; কিন্তু উহাদের বর্তমান আকারের পরিণতির সময় বলিয়া উহা স্বীকার করা হইলেও উহাদের প্রথম রচনার কাল বহু পূর্বের।

প্রাচীন স্মৃতিনিবন্ধকারদিগের উদ্ধৃত প্রমাণাদি তাহাতে না পাওয়া যাওয়ায় ইহা সহজেই বলা যায় যে, মূল সংহিতার বিলোপ ঘটিলে তন্নির্দিষ্ট অংশবিশেষের স্মৃতিবশে বর্তমান আকারে পরিণত করা হইয়াছে, মূল স্মৃতি বহু পূর্বেরই ছিল। ত্রয়োদশ খৃষ্টাব্দের মিথিলারাজ হরসিংহ দেবের মন্ত্রী চণ্ডেশ্বর ঠাকুর বিবাদরত্নাকর প্রভৃতি গ্রন্থের সঙ্কলয়িতা, তিনি নিজনিবন্ধে যে সকল সংহিতার বাক্য উঠাইয়াছেন, এখনকার সংহিতায় তাহা পরিলক্ষিত হয় না, সুতরাং অধিকাংশ মূল সংহিতা সকলের অভাব ঘটিতে থাকিলে আপ্তজনদের স্মৃতিবশে কতক সংহিতা সংক্ষিপ্ত পক্ষে গ্রথিত দেখা যাইতেছে। আবার বিষ্ণুসংহিতা প্রভৃতি দুই একখানির পূর্ব আকারও অব্যাহতই রহিয়াছে; ইহা ভিন্ন দুই একখানির পূর্ব আকারের খণ্ডিত অংশ-বিশেষ কুইন্স কলেজ প্রভৃতিতে দেখা যায়।

### আপস্তম্ব-স্মৃতি ( বা ধর্মসূত্র )

খৃষ্টপূর্ব এক সহস্র বৎসরের সময়ে রচিত বলিয়া<sup>১</sup> পাশ্চাত্য পণ্ডিত বৃহ্ণার সাহেব সিদ্ধান্ত করিয়াছেন। কিন্তু উহার ভাষা বৈদিক ভাষার অনুষগামী দেখিয়া আরও অনেক পূর্বের বলাই সম্ভব হয়।

মনুটীকা (মেধাতিথির) খৃষ্টীয় নবম শতাব্দীর মধ্যভাগে রচিত, ইহা সর্ববাক্ষিসম্মত। আর কুল্লুক ভট্ট খৃষ্টীয় ষোড়শ শতাব্দীর পণ্ডিত।

<sup>১</sup> মহামহোপাধ্যায় হরপ্রসাদ শাস্ত্রীর সঙ্কলিত এসিয়াটিক সোসাইটীর স্মৃতি-গ্রন্থের ক্যাটালগের মুখবন্ধে (Preface) আছে।

দণ্ডবিবেক চতুর্দশ শতাব্দীর মৈখিলরাজ ভৈরবের সময়ে বর্দ্ধমান উপাধ্যায়ের রচিতা ব্যবহার-মাতৃকা গ্রন্থখানি দায়ভাগ-রচয়িতা মহামহোপাধ্যায় জীমূতবাহনের সঙ্কলন ; এই জীমূতবাহন দ্বাদশ শত খৃষ্টাব্দের সমসাময়িক ।

ব্যবহারতত্ত্ব ও দিব্যতত্ত্ব স্মার্ত্ত রঘুনন্দন ভট্টাচার্য্যের অষ্টাবিংশতিতত্ত্বের অন্তর্গত ; এই স্মার্ত্তপ্রবরের জ্যোতিষতত্ত্বে লিখিত প্রমাণের অনুসারে জানা যায় ইনি পঞ্চদশ শতাব্দীতে নবদ্বীপে বসিয়া নিবন্ধ প্রণয়ন করিয়াছিলেন ।

মহাভারত খৃষ্টপূর্ব দুই সহস্র বৎসরের আগেকার, তাহারও পূর্বকালীন রামায়ণ ; ইহা বহু প্রমাণসিদ্ধ ।

সুতরাং আজি হইতে চারি সহস্র বৎসর পূর্ব সময় হইতে ভারতের প্রাচীন সভ্যতা চরম উৎকর্ষ লাভ করিয়াছিল, যাহার অনুসরণে প্রাচীন রোম ও গ্রীকে ভারতের সভ্যতার জ্যোতি প্রতিভাত হইয়াছিল বলিয়া প্রত্নতত্ত্ববিদগণ বলিয়া থাকেন এবং সেইজন্ম প্রাচ্যদেশে এই আপ্তবাক্য চলিয়া আসিতেছে—

এতদ্দেশপ্রসূতস্ত সকাশাদব্রজন্মানঃ ।

স্বং স্বং চরিত্রং শিক্ষেরন্ পৃথিব্যাং সর্বমানবাঃ ॥

অর্থাৎ ভারতবাসী ব্রাহ্মণগণের কাছে পৃথিবীর মানবমাত্রই চরিত্রশিক্ষার জন্ম ঋণী আছে । মহাভারতের রাজধর্ম্ম ও অর্থশাস্ত্ররূপে উল্লেখযোগ্য, ইহাতে যে অর্থনীতির অনুশীলনী আছে, তাহার আলোচনায় উপন্যাসপাঠের মত অন্তরে আনন্দ অনুভূত হয় ।

মহাভারতের পূর্ববর্তন ঋষি বাণ্মীকিও রামায়ণে উত্তরকাণ্ডের একশতদশ অধ্যায়ে শ্রীরামচন্দ্রের রাজ্যশাসনকালে একটা দেওয়ানি ও একটা ফৌজদারী মোকদ্দমা উপস্থাপিত করিয়া তাহার বিচারফলও দেখাইয়াছেন । সুতরাং ভারতের এই বিচারপদ্ধতি বহু সহস্র বৎসর পূর্বের ।

আমি মূলপ্রবন্ধের প্রমাণের বিশ্লেষণাবসরে প্রাচীন ভারতীয় প্রমাণের মধ্যে অগুতম দৈবিক প্রমাণেরও পরিচয় দিয়াছি, এই দিব্যপ্রমাণ যে কত বিশ্বাস্য ও কত আদরের বস্তু ছিল প্রাচ্যশাস্ত্ররাশিই তাহার নিদর্শন । শাস্ত্রকারেরা বহুমুখে ইহার সফল ঘোষণা করিয়া গিয়াছেন ; এই প্রমাণে

মন্ত্রশক্তির কি অপূর্ব ক্রিয়া হইত ! অচেতনও চেতনের মত শক্তিমান হইয়া কার্য্য করিত। যদিও বর্তমানে ইংরাজী আইনের মধ্যে ইহার স্থান নাই তথাপি, প্রাচীন ভারতীয় দণ্ডবিধির বিধায়কশাস্ত্র ও অজ্ঞাত ভারতীয় ইতিহাস ইহার প্রামাণ্য ও উপকারিতা উদঘোষণা করিয়া গিয়াছেন, সুতরাং সে বিষয় উল্লেখ করিতে বাধ্য হইয়াছি।

ইউরোপ প্রভৃতি পাশ্চাত্য দেশেও দুই শত বৎসর পূর্বেরূপ রূপান্তরে এই দিব্যপ্রমাণ অনুসৃত হইত, তাহা তাঁহাদের ইতিহাসই (গার্ডিনারের ইংলণ্ডের ইতিহাস) প্রমাণ দিতেছে। মহাভারতে বল্লভের দিব্য ও শপথের পরিচয় আছে; তখন মহাভারতের সভ্যতালোকই পৃথিবীর অজ্ঞানান্ধকার দূর করিতেছিল। আবার তাহারও পূর্বকালীন রামায়ণে সীতাদেবীর লঙ্কায় অগ্নি-পরীক্ষার এবং অযোধ্যায় যজ্ঞসভায় শপথ-গ্রহণের পরই অন্তর্দ্বানে তাঁহার লোকোত্তর পাতিজ্ঞাত্যের নিদর্শন পাইয়া দিব্যপ্রমাণে বিস্মিত হইতে হয়।

ভারতের অন্যতম দর্শনশাস্ত্রের পথপ্রদর্শক আচার্য্য উদয়ন মহাশয় নবশত খৃষ্টাব্দের সমসাময়িক; তিনি গ্রায়কুস্মাঞ্জলির প্রথম স্তবকে বলিয়াছেন—

যেহেতু বিচারকার্য্যে সহায়ভূত অগ্নি সকল প্রমাণেই সন্দেহ আসে, সুতরাং অগ্নি, জল প্রভৃতিতে পরীক্ষাদ্বারা যে শুদ্ধি দেখান হয়, তাহাতে তত্তদ্ব্যবহার অধিষ্ঠাত্রী দেবতাই দিব্যকারীর শুচিতা ও অশুচিতা দেখাইয়া দেন।

আর মীমাংসকদেরও সিদ্ধান্ত এই যে, তত্তদ্ব্যবহারে শক্তি সঞ্চারিত হইয়া পরীক্ষার্থীর শুভাশুভ অদৃষ্ট জন্মাইয়া দেয়।

প্রাচীন ভারতে মহাভারতাদির সভ্যতার যুগে অধিকাংশ স্থলেই মানুষের চাতুরী ছিল না, প্রাচীনে শ্রদ্ধা ও সত্যের অনুসরণই আর্গ্যসভ্যতার মূলমন্ত্র ছিল, লোকযাত্রার নিমিত্ত বিশেষ দণ্ড প্রচারের প্রয়োজন ঘটে নাই, বলবান্ দুর্বলকে বাধা দিত না, মানুষ পূর্ণ বিশ্বাসে চালিত হইত, প্রমাদবশে অপরাধ কদাচিত ঘটিত। ইহার অপর একটি কারণও ছিল—প্রত্যেক গৃহস্থ পূর্ব-সদাচারের অনুবর্তন করিতেন, প্রতিদিন নির্দ্ধারিত সময়ে পুত্র, কন্যা, পরিজন-বর্গকে সংশিক্ষা দিতেন, প্রাচীন ইতিহাস শুনাইতেন, শৈশব হইতে বংশধরেরা

সংশিক্ষার প্রভাবে চরিত্রবান্ হইত, অভিভাবকের দৃষ্টান্তে নিকৃষ্ট প্রবৃত্তিকে মনে স্থান দিত না। ইহাতে বর্তমানের মত পদে পদে অপরাধ ঘটিত না। নারদস্মৃতিতে তাহাই বলিয়াছেন—

ধর্ম্মৈকতানাঃ পুরুষাঃ সদাসন্ সত্যবাদিনঃ ।

তদা ন ব্যবহারোহভূন্ন দ্বেষো নাপি মৎসরঃ ॥

অর্থাৎ তৎকালে লোক সকল সত্যবাদী ধার্মিক থাকায় বিচারকার্যের প্রয়োজন হইত না, কাহারও অন্যের প্রতি দ্বেষ বা আশ্রের স্থখে হিংসা ছিল না।

সুতরাং কেহ কাহারও কিছু অপহরণ করিত না, একস্থানে রাজা বা বিচারক থাকিলেই প্রজার সুখস্বাচ্ছন্দ্য অব্যাহত থাকিত, লোক নির্ভয়ে কাল যাপন করিত। বর্তমানে অধিকাংশ লোকই বিশ্বাস হারািয়াছে, এমন কি আপনার প্রতিও আপনার বিশ্বাস নাই, কালের কঠোর তাড়নায় অনেক সময়ে আত্মগোপন অবশ্যস্বার্থী হইয়াও পড়িয়াছে, তাই লোকে পদে পদে অপরাধী হইতেছে।

সেই সকল অপরাধে উচিত দণ্ডের ব্যবস্থা না করিলে প্রজাবৃন্দ উত্তরোত্তর ঘোর উচ্ছৃঙ্খল হইয়া পড়ে—এই বিবেচনা করিয়াই আমাদের ভারতসম্রাট বর্তমানে কালদেশপাত্রের অনুসারে বেশ শৃঙ্খলার সহিতই দণ্ডবিধির ব্যবস্থা করিয়াছেন।

তবে এখানে একথাও অবশ্য স্মার্তব্য যে, ভারতের আশু ঋষিগণ ব্যবহার-শাস্ত্রে এমন কোন অপরাধ বা দণ্ডের উল্লেখ করেন নাই যাহা ইংরাজী আইনের নূতন উদ্ভাদিত বলিয়া প্রশংসা আসিয়া পড়ে, কেবল দণ্ডের হারিতম্য ও রূপান্তরই অনেক স্থলে প্রতীচ্যের সহিত প্রাচ্য আইনের অসামঞ্জস্যের মূল বলিয়া বিবেচিত হয়।

আমাদের ভারতসম্রাটের অনুমোদিত ভারতীয় বিচারালয়ের উপযোগী প্রমাণ-বিষয়ক Evidence Act নামক যে পুস্তক ১৮৭২ খৃষ্টাব্দে বাহির হইয়াছে সেই বিধি-নিষেধাত্মক পুস্তক সভ্যদেশের রাজনীতিজ্ঞদের মনীষা-প্রসূত হওয়ায় অধিকাংশ স্থলেই ভারতীয় প্রাচীন ব্যবহার-শাস্ত্রের ধারায় অনুসৃত দেখা যায়।

যদিও তাহাতে স্থলবিশেষ প্রাচীন ভারতীয় ব্যবহার-শাস্ত্রের বিসংবাদী, কিংবা স্থলবিশেষ পরিবদ্ধিত বা বিষয়বিশেষ সঙ্কুচিত হইয়াছে দেখা যায়, তাহাও অর্থশাস্ত্র বলিয়া দেশ, কাল ও পাত্রের অনুসারে বুদ্ধিমান রাজনীতিজ্ঞদের সূক্ষ্মদৃষ্টিরই পরিণতি বুঝিতে হইবে, কারণ বর্তমানে তাহার অনুসরণে অনেক স্থলেই শাস্তিফলের সমুজ্জ্বল নিদর্শন দেখা যায়।

এক্ষণে সেই ভারতীয় বিচারকার্যের সমাধানকল্পে অবশ্যাপেক্ষণীয় প্রাচীন ভারতীয়শাস্ত্রনির্দিষ্ট প্রমাণ-বিষয়ের মৌলিক তথ্য নিরূপণমুখে বর্তমান রাজকীয় প্রমাণ-আইনের সঙ্গে তাহার সহযোগ ও অসহযোগ দেখাইয়া উভয়ের তুলনামূলক আলোচনাই বর্তমান প্রবন্ধের মুখ্য উদ্দেশ্য।

এতাদৃশ গুরুতর বিষয়ে মাদৃশ জনের লেখনীধারণ নিতান্ত সাহসের কার্য্য হইতেছে বুঝিতেছি, তথাপি শুভানুধ্যায়ী বান্ধবজনের উৎসাহ-সলিল-সম্পর্কে মদীয় অন্তরের সরসভাব উপলব্ধি করিতে পারিয়াই তাদৃশ দুরূহ ব্যবহার-শাস্ত্রের মর্ম্ম উদ্ঘাটন করিতে পশ্চাৎপদ হই নাই।

বিচারোপযোগী প্রমাণস্বরূপ সাক্ষ্যবিধিতে প্রাচীন ভারতীয় ব্যবহার-শাস্ত্রে যে সমুদয়ের নির্দেশ আছে তাহা মূল প্রবন্ধের প্রথম কয় পৃষ্ঠায় দেখাইয়াছি, বর্তমানে ইংরাজ রাজার প্রবর্তিত সেই আইনে স্থল-বিশেষে তারতম্য দেখা যায়। প্রাচীন ভারতীয় ব্যবহার-শাস্ত্রে কতকগুলি লোকের সাক্ষ্য অতি উত্তম প্রমাণ বলিয়া সর্ববথা গ্রহণীয়রূপে নির্দেশ আছে; যেমন—ব্রাহ্মণ বা উচ্চপদস্থ ব্যবহারবিদের কিংবা সৎশস্যসম্বৃত অনিন্দিত-চরিত্রের সাক্ষ্য। এইরূপ কতকগুলির সাক্ষ্য একেবারে অগ্রাহ্য বা অবিশ্বাস্য বলা আছে; যেমন—বাদী বা প্রতিবাদীর আত্মীয়, বন্ধু বা ঐ উভয়ের প্রতি নির্ভরশীল অবশ্য-প্রতিপাল্য ব্যক্তির, অথবা উহাদের সঙ্গে যাহার কোন সূত্রে বাধ্য-বাধকতা আছে তাহাদের সাক্ষ্য গ্রাহ্য নহে।

কিন্তু ইংরাজী আইনে এরূপ ব্যক্তিদের সাক্ষ্য অবশ্য-গ্রাহ্য অথবা অধিক অবিশ্বাস্য বা একান্ত অগ্রাহ্য বলা নাই। উক্ত আইনের অভিপ্রায়ে সর্ব-শ্রেণীর সাক্ষ্যই গ্রাহ্য হয় এবং বিচারের সাহায্য করিয়া থাকে যদি ঐ সাক্ষ্য সমস্ত অবস্থার সহিত তুলনায় বিশ্বাসযোগ্য হয়।

ইহাতে বিবেচনা হয়—প্রাচীন ভারতে সমাজবন্ধন ও মনুষ্যবিশেষের তারতম্যের উপর লক্ষ্য রাখিয়াই আইন বাঁধা হইয়াছিল। আর আমাদের ইংরাজরাজার আইনে—বর্তমানে মনুষ্যচরিত্রের পরিবর্তন অনুসারে সামাজিক অবস্থার যে আকার দাঁড়াইয়াছে, তাহার উপর নির্ভর রাখিয়াই বিধি-নিষেধ প্রবর্তিত হইয়াছে, এবং বিচারকের প্রতি প্রমাণের বিশ্বাস্যতা বিষয়ে যথেষ্ট স্বাধীনতা দেওয়া হইয়াছে।

কালধর্ম্মে মানুষ পদে পদে স্থলিত হইতেছে, স্তত্রাং বর্তমান দণ্ডবিধি কালোচিত হওয়ায় যোগ্য মার্গে উপনীত হইয়াছে বলিয়া ধারণা করা যায়; তবে যত ঔষধের আবিস্কার ঘটে ততই নূতন আকারের রোগসকল দেখা দেয়, এই দৃষ্টান্তে যতই আইন বাঁধা হইতেছে ততই অপরাধ বৃদ্ধি পাইতেছে বলিয়া আমার এক ভ্রান্ত ধারণা আছে।

প্রাচীন শাস্ত্রকারেরা সাক্ষ্য-আইনে ব্যক্তিত্বের উপরেই নির্ভরশীল থাকিয়া সাক্ষ্য বিষয়ে স্থানবিশেষে অধিকারি-নিরূপণে যুক্তহস্ত, স্থলবিশেষে বন্ধ-মুষ্টি হইয়া গিয়াছেন; আর ইংরাজরাজার আইনকারেরা সাক্ষীর বাক্যের উপর নির্ভর রাখিয়া অবান্তর নীতি প্রবর্তিত করত সাক্ষি-নিরূপণে উদারতা দেখাইয়াছেন।

তবে একথা সকলকেই মানিতে হইবে যে বর্তমান সময়ে প্রাচীন ভারতের মত ব্যক্তিত্বের পর্যালোচনা অনুসারে প্রমাণসংগ্রহ করিতে হইলে বিচার-কার্য নিষ্পন্ন হইত না, কারণ একেই তো তাঁহাদের নির্দিষ্ট গুণসম্পন্ন ব্যক্তি দুর্লভ, তাহার উপর তাঁহাদের মতে একান্ত অগ্রাহ্য ব্যক্তির সাক্ষ্য অপ্রমাণ করিতে বাইলে বিচার দুর্ঘট হইয়া পড়িত। তাই ইংরাজ রাজ-নীতিজ্ঞেরা ভিন্ন পন্থার অনুসরণ করিয়াছেন।

বর্তমান সাক্ষ্যবিষয়ক ইংরাজী আইনের ৩২ ও ৩৩ ধারায় যে বিধান লক্ষিত হয়, সম্পূর্ণ সে বিধান পুরাকালের আইনে দেখা যায় না, তাহার কিছু অংশ ক্ষেত্রবিশেষে অনুসৃত আছে মাত্র। অথচ এই দুইটি ধারার নির্দিষ্ট প্রমাণ অবস্থানুসারে বিচারকার্যে অতি প্রয়োজনীয় ও বিশ্বাসযোগ্য। স্তত্রাং এই দুই ধারার নির্দিষ্ট প্রমাণ পুরাতন আইনের কাছে প্রয়োজনীয় ও উৎকৃষ্ট বলিয়া বিবেচনা করা যায়।



ঐ ৩২ ও ৩৩ ধারা অতি বিস্তৃত, তাহার অতি সংক্ষিপ্ত সার-সঙ্কলন দেখাইতে হইলে এই মাত্র বলা যায় যে ৩২ ধারায়

মৃত ব্যক্তির জীবিত কালের উক্তি বা লিপি যদি কোন পরবর্তী মামলায় প্রয়োজনীয় হয় তবে তাহা প্রাসঙ্গিক প্রমাণরূপে গ্রাহ্য হইবে ; কিন্তু ঐ বলা বা লেখা মৃতের স্বার্থের বিরুদ্ধে হইলে কিংবা সাধারণের উপকার-সাধনের সহায়রূপে দাঁড়াইলে অধিক প্রয়োজনীয় প্রমাণ হইবে ; এবং যদি ঐ বলা বা লেখা তাহারই মৃত্যুঘটিত সংবাদে সাহায্য করে তবে তাহা তাহারই মৃত্যুঘটিত মামলায় প্রয়োজনীয় হইবে । এই প্রকার অনেক মর্ম্ম আছে ।

এবং ৩৩ ধারা—

যদি কোন ঘটনায় কাহারও সাক্ষ্য দেওয়া থাকে এবং তাহার মৃত্যুর পর তৎসঙ্গাতীয় কোন মামলায় ঐ মৃতব্যক্তির পূর্বপ্রদত্ত সাক্ষ্য প্রাসঙ্গিক প্রমাণরূপে বিবেচিত হয়, কিংবা ঐ সাক্ষ্যোক্তি দ্বারা বর্তমান মামলায় অপ্রাপ্ত দলালের আংশিক মর্ম্ম অথবা দলীল প্রস্তুত করার তারিখ, সময় জ্ঞাত হইবার সুযোগ দেখা যায়, সে ক্ষেত্রে ঐ মৃতের পূর্বপ্রদত্ত সাক্ষ্যবাক্য প্রমাণরূপে গৃহীত হইবে ।—এই জাতীয় অনেক মর্ম্ম আছে, বিস্তার-ভয়ে উল্লেখে বিরত হইলাম ।

প্রাচীন আইনে রাজনিযুক্ত শান্তিরক্ষক অর্থাৎ পুলিশের নিকট স্বীকারোক্তি প্রমাণরূপে গৃহীত হইবে কিনা তাহার কোন নিদর্শন মিলে না, বর্তমান ইংরাজ আইনে বলা আছে যে ঐরূপ পুলিশের কাছে যে উক্তি উপস্থাপিত অভিযোগের মৌলিক তথ্য আবিষ্কারের সহায়তাকারক ( অর্থাৎ যদি কোন চোর ‘আমি চুরি করিয়াছি’ বলিয়া চোরীকৃত বস্তু বাহির করিয়া দেয় ) তথায় ঐ স্বীকারোক্তি প্রমাণপর্য্যায়ে সন্নিবেশিত হইতে পারিবে, নচেৎ পুলিশের নিকট সকল উক্তি প্রমাণ হয় না ; এবং প্রাচীন আইনে চুরি বা অন্য সাহস-ব্যাপারে ( অর্থাৎ ফৌজদারী মোকদ্দমায় ) অগ্রে পুলিশের কাছে আবেদনের ( এজাহার দেওয়ার ) রীতি দেখা যায় না, সুতরাং এটি ইংরাজী আইনে নূতন বলিয়া বিবেচিত হয় ।

ভারতীয় প্রাচীন শাসনকার্যে যেমন রাজ্যরক্ষাকল্পে দুর্গ, সৈন্য, সেনাপতি, প্রভৃতি নানা বিষয়ের অধ্যক্ষ থাকার ব্যবস্থা খুব ছিল, তেমনি রাজা গ্রামে

গ্রামে, পঞ্চগ্রামের উপর, দশগ্রামের উপর, শতগ্রামের উপর এবং জনপদের উপর এক একজন ব্যবহারবিদ অধ্যক্ষ নিযুক্ত করিতেন। তাহার প্রমাণ আপস্তম্ব বলিয়াছেন—

গ্রামেষু নগরেষাণ্যান্ শুচীন্ সত্যশীলান্ প্রজাণ্ডপ্তয়ে নিদধ্যাৎ সর্ববতো যোজনং নগরম্ ইতি ।

অর্থাৎ গ্রামে নগরে প্রজারক্ষার নিমিত্ত সত্যাচারী চরিত্রবান্ লোক নিযুক্ত করিবেন।

তবে এ বিষয়ে আরও সূক্ষ্ম কথা যাজ্ঞবল্ক্যে ও নারদ-স্মৃতিতে দেখিতে পাই যে—

কুলানি শ্রেণয়শ্চৈব গণাশ্চাধিকৃতো নৃপঃ ।

প্রতিষ্ঠা ব্যবহারাণাং সর্বেষামুত্তরোত্তরঃ ॥

অর্থাৎ অর্থি-প্রত্যাধীর স্বকুলোৎপন্নেরা, একশিল্লোপজীবীরা ও প্রতিবাসী লোকসমুদয় এবং রাজনিযুক্তেরা ও শেষ স্রয় রাজা এই পাঁচ প্রকার স্থানই বিবাদ-নির্ণায়ক-রূপে উত্তরোত্তর প্রধান; ইহার তাৎপর্য্য এই যে প্রথমে বিচারপ্রার্থী স্বকুলোৎপন্নদের আশ্রয় লইবেন, তাঁহাদের বিচারে অসম্মুখ হইলে ক্রমিক রাজনিযুক্ত গ্রামাধ্যক্ষদিগের নিকট যাইবেন, তাহাতেও ত্রায্য ফল পাইলাম না বুঝিলে রাজার গোচরে যাইতে পারিবেন।

এ বিষয়ে মনুও বলিয়াছেন—

গ্রামস্তাধিপতিং কুর্যাদ্ দশগ্রামপতিং তথা ।

বিংশতীশং শতেশঞ্চ সহস্রপতিমেব চ ॥

গ্রামে দোষান্ সমুৎপন্নান্ গ্রামিকঃ শনকৈঃ স্রয়ম্ ।

শংসেদ্ গ্রামদশেশায় দশেশো বিংশতীশিনম্ ॥

বিংশতীশস্ত তৎ সর্বং শতেশায় নিবেদয়েৎ ।

শংসেদ্ গ্রামশতেশস্ত সহস্রপত্যে স্রয়ম্ ॥

অর্থাৎ রাজা প্রতিগ্রামে একজন অধ্যক্ষ রাখিবেন এবং দশজন গ্রামাধ্যক্ষের উপর একজন, শতগ্রামাধ্যক্ষের উপর একজন এবং সহস্রগ্রামাধ্যক্ষের উপর একজন বিশিষ্ট অধ্যক্ষ নিযুক্ত করিবেন। গ্রামের অধ্যক্ষের

গোচরে দোষ-মীমাংসা না হইলে তিনি দশগ্রামাধ্যক্ষের গোচর করিতেন, এইরূপে ক্রমে ক্রমে রাজার নিকট পর্য্যন্ত ব্যবহার পৌঁছিত।

ইহাতে এই বুঝা যায় যে প্রথমে গ্রামবাসী আত্মীয় প্রভৃতি দ্বারা অমীমাংসিত ব্যবহারই রাজনিযুক্ত গ্রামাধ্যক্ষের বিচারাধীন হইত, ক্রমে ক্রমে রাজগোচর পর্য্যন্ত যাইয়া নিষ্পত্তি পাইত।

এই ৭প্রালীটী বর্তমান ইংরাজী আইনেও বেশ সুস্পষ্ট রহিয়াছে।— কোনও নালিশ প্রথম গ্রামাধ্যক্ষ (দারোগা), তদন্তর বিচারক (প্রাদেশিক সবডিভিশনাল অফিসার), তদুপরি জেলার অধ্যক্ষ প্রভৃতির গোচর করাইয়া ক্রমে রাজার গোচরে গিয়া উপস্থাপিত করা হয়।

আর প্রাচীন ভারতীয় অর্থশাস্ত্রে গ্রামে রক্ষক-নিয়োগেরও বেশ সুব্যবস্থা ছিল, যাহা বর্তমানে পুলিশ প্রহরীর স্থান পাইয়াছে।

এ বিষয়ে আপস্তম্ব বলিয়াছেন—

সর্ববতো যোজনং নগরং তস্করেভ্যো রক্ষ্যং কোষো গ্রামেভ্যঃ।

অর্থাৎ সর্বত্র গ্রাম-নগরাদিতে চোর হইতে রক্ষার জন্য এবং গ্রাম হইতে সংগৃহীত ধনাগার গ্রামবাসীর নিকট হইতে রক্ষার জন্য রক্ষক নিযুক্ত করিবে। এই রক্ষক যাহাদিগকে করা হইত তাহাদের কথা কোঁটিল্যাই বলিয়াছেন—

তেষামন্তরাণি বাণুরিক-শবর-পুলিন্দ-চাণ্ডালারণ্যচরা রক্ষ্যম্ঃ।

অর্থাৎ গ্রামের সর্বস্থান ব্যাধ, চণ্ডাল, শবর, অরণ্যচরাদি রাজনিযুক্ত হইয়া রক্ষা করিবে।

ঐ সমুদয় রক্ষকেরা গ্রামাধ্যক্ষের অধীনে থাকিয়া নিজ নিজ অধিকারে অপ্রমাদী থাকিত এবং তাহাদিগকে আগন্তুক অপরিচিতদের গতিবিধি লক্ষ্য রাখিতে হইত।

প্রাচীন আইনেই বলা আছে, যদি গ্রামে কাহারও বা আগন্তুক বিদেশী বণিকদের কোন বস্তু বা অর্থ চুরি যায় ও চোরের সন্ধান না মিলে তথায় নিযুক্ত গ্রামাধ্যক্ষ নিজের অনবধানতার জন্য নিজ কোষ হইতেই তাহা পূরণ করিবেন; যদি গ্রামাধ্যক্ষ নিঃসম্মল হন তবে রাজা নিজ হইতে তাহা দিবেন।

এ বিষয়ে কোর্টিল্যের অর্থশাস্ত্রে পাই—

চোরহতমবিদ্যমানং স্বদ্রব্যোভ্যো দত্তাৎ ।

এবং কাত্যায়নবাক্যে দেখা যায়—

গ্রামান্তরে হতং দ্রব্যং গ্রামাধ্যক্ষং প্রদর্শয়েৎ ।

আবার বিজ্ঞানেশ্বরধৃত ব্যাস-বচনেও দেখিতে পাই যে—

প্রত্যাহত্বমশক্তশ্চেদ্বনং চোরহতং যদি ।

স্বকোষান্তন্ধি দাতব্যমশক্তেন মহীক্ষিতা ॥

অর্থাৎ চোরাপহৃত ধন নিযুক্ত গ্রামাধ্যক্ষ পূরণ করিতে না পারিলে রাজা স্বয়ং নিজ ধনাগার হইতে দিবেন ।

বর্তমান ইংরাজী আইনে এ ব্যবস্থা না থাকায় প্রাচ্য আইন উন্নত মার্গে অধিকৃত আছে বলা যায় ।

আর চোরাই বস্তু ক্রয় করা বা চোরকে প্রশ্রয় দেওয়াও চুরির তুল্য অপরাধ, তাহাও প্রাচীন শাস্ত্রে পাইতেছি—

চোরাণাং ভক্তদা যে তু তথাগ্ন্যুদকদায়কাঃ ।

ক্রেতারশ্চৈব ভাগানাং প্রতিগ্রাহিণ এব চ ॥

সমদগাঃ স্মৃতান্তে তু যে চ প্রচ্ছাদয়ন্তি তান্ ॥

অর্থাৎ যাহারা চোরকে আশ্রয় দেয়, খাইতে দেয়, বা তাহাদের কাছে দ্রব্য ক্রয় করে কিংবা যাহারা তাহাদিগকে গোপন করিয়া রাখে, তাহারাও চোরতুল্য দণ্ডার্হ । এ বিষয়ে বর্তমান ইংরাজী আইনের সঙ্গে কোন অসামঞ্জস্য নাই, ইংরাজী আইনেরও এই অভিপ্রায় ।

রাজ্যের শৃঙ্খলাকল্পে শান্তিরক্ষকের ( পুলিশের ) প্রসঙ্গ ভারতীয় অর্থশাস্ত্রে যেরূপ অবধারিত আছে সেই মত বৌদ্ধযুগেও মধ্যসময়েও প্রচলিত ছিল, কাব্য-নাট্যাদিতেও তাহার নিদর্শন পাই । নগররক্ষকের পরিচয় যুচ্ছকটিক নাটকে সুব্যক্ত আছে । পাশ্চাত্য পণ্ডিতদের মতে এই নাটক-রচয়িতা রাজা শূদ্রক খৃষ্টপূর্ব ৫০ পঞ্চাশ বৎসরের সাময়িক । তিনি এই নাটকের নায়ক চারুদত্তকে লইয়া যে ফৌজদারী মামলার বিচারের তাৎ-কালিক শৃঙ্খলা দেখাইয়াছেন, তাহাতে বেশ বুঝা যায় যে তৎকালে শান্তিরক্ষকের সাহায্যেই দোষীকে বিচারগৃহে আনা হইত, অপরাধীর

অপরাধ প্রমাণ করিবার কালে প্রত্যক্ষদর্শী-হিসাবে শাস্তিরক্ষকের সাক্ষ্যও লওয়া হইত এবং ঐ সাক্ষ্যই বলবৎ প্রমাণরূপে গ্রাহ্য করিয়া বিচার নিষ্পন্ন করা হইয়াছিল। ঐ মুচ্ছকটিকের বিচারপদ্ধতি প্রাচ্য অর্থশাস্ত্রের অনুসারেই দেখান আছে।

মুচ্ছকটিকে বর্ণিত বিচারপদ্ধতির পরিচয়ে ইহাও বেশ বুঝা যায় যে “এই ব্যক্তি হত্যাকারী কিনা এবং নিহত ব্যক্তি উল্লিখিত ব্যক্তি কিনা” “এই ঘটনা তথ্য ঘটয়াছিল কিনা” এ সমুদয়ের সম্যক পরিচয় অগ্রে পুলিশ কর্মচারীদের সাক্ষ্যপ্রমাণের উপরই নির্ভর করিত।

দ্বিতীয় কালিদাসের সময়ে। শ্রুততত্ত্ববিদেরা এখনও কালিদাসের সময়-নির্ধারণে একমত হন নাই, কেহ খৃষ্টীয় পঞ্চম, কেহ খৃষ্টীয় ষষ্ঠ, কেহ বা খৃষ্টীয় সপ্তম শতাব্দীর কবি বলিয়া নির্দেশ করিয়াছেন।

আমরা কালিদাসের জ্যোতিবিদ্যভরণের লিখিত সময়কে প্রমাণরূপে গ্রহণ করি, তাহাতে কালিদাস খৃষ্টপূর্ব ৫০ বর্ষের সময়ে রাজা বিক্রমাদিত্যের সভাসদরূপে নবরত্নমধ্যে অবস্থিত বিবেচনা হয়। কালিদাসের কাব্যমালার অনুশীলন করিলে বেশ বুঝা যায় যে জ্যোতিষে তাঁহার বিশেষ অধিকার ছিল, সুতরাং জ্যোতিবিদ্যভরণ গ্রন্থের লিখিত বলিয়া অপ্রমাণচক্ষে দেখিবার কোনই কারণ বুঝি না।

যাহা হউক, কালিদাসের শকুন্তলার আলোচনা করিলে তৎকালিক নগর-রক্ষক (পুলিশ প্রহরীর) বেশ পরিচয় পাই। রাজ্যে যে-কিছু অপরাধের কার্য্য উপস্থিত হইত তখন তাহারাই দোষীকে ধরিত, অপরাধের মূল জানিয়া রাজসকাশে লইয়া যাইত এবং সত্যনির্ণয়ের নিমিত্ত দোষীকে জিজ্ঞাসা-বাদ করিয়া যাহা জানিতে পারিত তাহা তাহারাই অগ্রে রাজসন্নিধানে বিবৃত করিত। তবে তাঁহার বর্ণিত ঘটনাটী রাজধানীতেই হইয়াছিল।

প্রাচীন ভারতে সাক্ষীকে ক্রুটপ্রশ্ন (জেরা) বা cross examine করিবার ব্যবস্থা বিশেষভাবে নিবারণিত আছে, কিন্তু বর্তমান ইংরাজ আইনে তাহার বিশেষ ব্যবস্থা রহিয়াছে ও সেইমতে কার্য্যও চলিয়া আসিতেছে, সুতরাং ঐ বিষয়ে উভয়ের অসামঞ্জস্য দেখা যায়। বিবেচনা হয়, পুরাকালে সাক্ষ্যপ্রমাণে ব্যক্তিত্বের উপর নির্ভরতা ছিল এবং ব্যক্তিত্বে অবিশ্বাস করিবার কোন

কারণ ছিল না, কাহারই মনুষ্যত্ব-বিকাশের অন্তরায়ভূত আত্মশক্তির উপর সন্দেহ কি বিশ্বাসের শৈথিল্য ছিল না।

প্রত্যেক ব্যক্তিই সরল, নির্লোভ ও সত্যপরায়ণ থাকায় সকলের বিশ্বাস-ভাজন ছিলেন, সুতরাং তৎকালে সরল উপায়েই বিচার নিষ্পন্ন হইত।

শপথ করা যে একটি প্রমাণ প্রাচীন আইনে পাওয়া যায় তাহা দিব্য প্রমাণেরই অংশমাত্র, সে বিষয়ে প্রবন্ধেই বিস্তৃত আলোচনা করা হইয়াছে।

দিব্য-পরীক্ষা বলিয়া শাস্ত্রকারেরা যে শেষ প্রমাণ নির্দেশ করিয়াছেন তাহাই বর্তমানে ইংরাজী আইনের জেরার স্থান অধিকার করিয়াছে, একথা বলা যাইতে পারে।

ইংরাজী আইনে ক্ষেত্রবিশেষে বিশেষজ্ঞের (expert) সাক্ষ্য গৃহীত হইয়া থাকে, ইহা প্রাচীন আইনের অভিপ্রায়েও সমান সত্য, কিন্তু যখন দিব্যপরীক্ষা উঠিয়া গিয়াছে, দিব্য জীবের বিশ্বাস নাই, সুতরাং এ ক্ষেত্রে বর্তমান মতে কূট-প্রশ্ন (জেরা) (cross-examination) বিচারকার্যের বিশেষ সহায়তাকল্পে দাঁড়াইয়াছে বলিতে হইবে। কারণ কূট-প্রশ্নে মূল সত্যের সূনির্ণয় সহজেই ঘটিয়া উঠে, তজ্জন্ম দেশ, কাল ও পাত্র অনুসারে “জেরা করার” বিধান প্রবর্তিত করায় সত্য উদ্ঘাটনের পক্ষে বিশেষ সুবিধা হইয়াছে সত্য, কিন্তু অনেকস্থলে উকীলেরা অপ্রাসঙ্গিক জেরা করিয়া বিশিষ্ট সাক্ষীরও হেয়তা আবিষ্কৃত করিয়া দেন, তাহাতে উদ্ঘাটিত সার সত্যও মিথ্যা বলিয়া বিবেচনা হয়।

বর্তমানে উকীলের শ্রায় পুরাকালেও বাদে-নিযুক্ত বলিয়া একজন প্রতিনিধির পরিচয় পাওয়া যায়, কিন্তু তাহা বিশেষ পীড়িত হওয়া প্রভৃতি অনিবার্য কারণেই অর্থী বা প্রত্যর্থীর অভিমত প্রতিনিধি হইয়া আসিতেন এবং অর্থশাস্ত্রে সুপণ্ডিত ভিন্ন ওরূপ প্রতিনিধি হইতেন না। ঐরূপ প্রতিনিধি দেওয়া হইলেও হত্যা প্রভৃতি অপরাধে নিজের উপস্থিতি বর্তমানের মত অবশ্যাপেক্ষণীয় ছিল।

এখন যেমন যে কোন লঘুতম ব্যবহার হইতে নরহত্যা প্রভৃতি সকল মামলাতেই উকীল নিয়োগ হইতেছে, কিন্তু পুরাকালে স্ত্রীলোক, বালক, মূখ,

১ অপোগণ্ড-জড়োন্নত-বুদ্ধ-স্ত্রী-বাল-বোগিণ্যাম্।

পূর্বোক্তরং বদেদন্ত নিযুক্তোহথ বুধো নরঃ ॥—কাত্যায়ন-স্মৃতিঃ

পাগল ও রোগীর পক্ষেই উকীল নিয়োগের কথা বিশেষভাবে বলা আছে। আর সাক্ষীর সম্বন্ধে স্বয়ং উপস্থিত হওয়া যেমন বর্তমান আইনে বিহিত তেমনি প্রাচীন আইনেও সাক্ষীর প্রতিনিধিরূপে উকীলমাত্র আসিলে চলিত না।

পুরাকালের বিচার-পদ্ধতিতে দেখা যায়—সাক্ষী বিচারকের নিকট আসিয়া প্রাসঙ্গিক অপ্রাসঙ্গিক সকল কথাই বলিতেন। বিচারক তাহার কথা হইতে সার সঙ্কলন করিয়া তাহারই সাহায্যে সত্য-নির্ণয় করিতেন।

বলিতে গেলে ইহাই দাঁড়ায় যে তৎকালে বিচারকই একাধারে বিচারকর্তা ও উকীল ছিলেন।

ইহাতে অনেক সময়ে শুভফলই হইত, কারণ বিচারক নিরপেক্ষ (উকীল প্রভৃতির স্বমত-পরিপোষক), তবে এই কার্যে বহু সময় অতিবাহিত হইত; লোকের সময়ও তখন বেশী ছিল। বর্তমানের ন্যায় এত মোকদ্দমাও ছিল না।

প্রাচীন ব্যবহার-শাস্ত্রে প্রাড়্‌বিবাক বলিয়া একজনের পরিচয় পাওয়া যায়। ইহার ব্যুৎপত্তিগত অর্থ—প্রচ্ছ-ধাতুনিষ্পন্ন প্রাট্‌ অর্থে প্রশ্নকারী, আর বি-বচ্-ধাতুনিষ্পন্ন বিবাক অর্থে বিবেচক। সুতরাং যিনি ব্যবহারে প্রশ্নকর্তা ও সদস্যের নির্ণয়কারী। ইহা বিচারককেই বুঝাইয়া থাকে। এইজন্য প্রাড়্‌বিবাক পদে বিচারককে বুঝানই অনেক স্থানে আছে।

তবে বিচারকের সহযোগী অন্যতম রাজনিযুক্ত ব্যবহারবিদ যে কোন সভ্য ব্যবহারের সূক্ষ্মার্থ নিরূপণ করিয়া দিতেন, তাঁহাকেও প্রাড়্‌বিবাক বলা যাইত। বিচারক ভিন্ন অন্যত্র প্রাড়্‌বিবাকও গুরুতর ব্যবহার-কার্যে থাকিতেন ইহা দেখা যায়, তিনিও অন্যতম বিচারকরূপেই গণ্য। তিনি উকীলের মত পক্ষবিশেষের প্রতিনিধি নহেন—বিচারকার্যে বিচারকের সহযোগী মাত্র।

বর্তমানে সময়ের মূল্য বেশী, বিচারক সে ভাবে সত্য-নির্ণয়ের অবকাশ লইলে একটী ক্ষুদ্র বিচার নিষ্পন্ন হইতে বহু সময় অতিবাহিত হইয়া যায়। সুতরাং বাদী, প্রতিবাদী ও সাক্ষীর বাক্যের সার-সঙ্কলন করিয়া বিচারকের নিকট উপস্থাপিত করিবার জন্যই ভারত গবর্ণমেন্ট সকল প্রকার বিবাদেই ব্যবহারাজীবের (উকীলের) বিধান করিয়াছেন। ইহাতে অল্প সময়ের মধ্যে সত্য উদ্ঘাটিত হয় বলিয়া বিচারকার্যের অনেক সুবিধা হইয়াছে।

আর প্রাচীন ভারতে বাদী-বিবাদীর অন্যতমের বিশেষ পীড়াদি প্রতিবন্ধক হইলে যিনি প্রতিনিধিরূপে নিযুক্ত হইতেন তিনি সম্পূর্ণ বর্তমান বিধানানুযায়ী উকীলের মত নহেন; কারণ তাৎকালিক প্রতিনিধি তাহারই প্রয়োজনীয় কথা বলিত, বর্তমানের প্রতিনিধিরা প্রতিপক্ষকেও প্রশ্নধারায় জর্জরিত করে। এ নিয়ম যে সর্বতোভাবে প্রশংসনীয় তাহা বিবেচনা করা যায় না। কারণ ব্যবহারাজীবেরা (উকীলেরা) পরস্পর পরস্পরের প্রতি ঈর্ষ্যা-প্রণোদিত হইয়া সাক্ষী প্রভৃতির উক্তির মর্ম্য নিজ নিজ পক্ষের অনুকূলে উপস্থাপিত করিয়া বিচারককে স্বমতে আনাইবার সুযোগ আশ্রয় করিয়া থাকেন, তাহাতে অনেক সময়ে বিচার-বিভ্রাট ঘটয়া যায়।

বর্তমানে ইংরাজী আইনে প্রকৃত প্রমাণ ভিন্ন অন্য প্রমাণ অগ্রাহ্য, কিন্তু প্রাচীন ভারতীয় আইন এ বিষয়ে নিরুত্তর। এই নিরুত্তরতার অন্য যে কোন কারণ থাকুক ইহা নিশ্চয় যে, তখনকার লোক সত্যবাদী থাকায় সত্যের আবরণগোদে দেশে কোন অপ্রাসঙ্গিক কথা বলিত না, স্বাভাবিক কথাই বলিত।

আর দুইটি বিষয়ের আলোচনা করিয়াই ভূমিকা শেষ করিব।

প্রথম—

প্রাচীন ভারতীয় শাস্ত্রে বলা আছে যে, যদি কাহারও বার বৎসর ব্যাপিয়া কোন প্রকার উদ্দেশ্য না মিলে তবে তাহার মৃত্যুর অবধারণ হইবে; অর্থাৎ দ্বাদশবর্ষব্যাপী অনুদ্দেশ্যই তাহার মৃত্যুর পক্ষে প্রমাণ।

গতশ্রু ন ভবেদ্বার্তা যাবদ্বাদশবার্ষিকী।

প্রেতাবধারণং তস্য কর্তব্যং স্মৃতবান্ধবৈঃ ॥ যম-স্মৃতিঃ।

আর ইংরাজী আইনের ১০৭ ধারার অভিপ্রায়ে সে ক্ষেত্রে সাত বর্ষকাল অনুদ্দেশ্যই মৃত্যুর প্রমাণরূপে গৃহীত হইবে। এই যে বৈষম্য ইহার মূলে প্রথমতঃ দেশের লোকের মানসিক অবস্থা-ভেদ বুঝিতে হইবে, আত্মীয় জনের জন্য প্রাণের ব্যাকুলতা অধিক থাকিলে মরণাবধারণের পক্ষে সাত বৎসরই যথেষ্ট সময়, বর্তমানে লোকের হৃদয়ের ব্যাকুলতা অনুসারে সাত বৎসর ধরা কালোচিত হইয়াছে বলিয়া কতক বুঝা যায়।

কিন্তু প্রাচীন কালে ভারতের লোক এই আকর্ষণে ব্যাকুল হইত না, তাহাদের কাছে সাত বর্ষ সংবাদ না দেওয়া বা না পাওয়া অসম্ভব ব্যাপার



হইত না। তখন লোকে ধর্ম্মানুরাগে পদব্রজে ভারতীয় তীর্থ-পর্য্যটনে ব্যাপৃত থাকিলে সাত বর্ষ অতীত হইয়া গেলেও প্রায়ই সংবাদ না দেওয়া ঘটিত, এবং তখনকার কালে ভাষা-পার্থক্যেও সংবাদ-প্রদানের অসুবিধাবশতঃ সংবাদ পাওয়ার সুযোগ হইত না। সুতরাং প্রবাসী যে সাত বর্ষ পরেও বাঁচিয়া নাই এরূপ নির্ণয়ের সুযোগ কি করিয়া হইতে পারে? প্রাচীন ভারতের পদ্ধতি অনুসারে পত্রাদিপ্রেরণের সুবিধা বা ইচ্ছা প্রায়ই হইত না। অবশ্যকর্তব্য রাজকার্য্য ও বাণিজ্যের জন্য যথাক্রমে রাজা ও বণিক্দেরই পত্র-ব্যবহার হইত।

বিশেষতঃ “ন জাতু স্মাৎ কুতূহলী” এই শ্রুতি-প্রমাণে সহজে কাহারও আত্মীয়ের জন্য উৎকর্ষা আসিত না, কারণ উৎকর্ষা আসিলে বিদেশের লক্ষ্য-কর্তব্যসাধনে বিঘ্ন ঘটিতে পারে; এবং গৃহস্থিত আত্মীয়েরাও স্থান অনির্দিষ্ট থাকায় প্রবাসীর সন্ধান লইবার সুযোগ পাইতেন না, তাই বিদেশগতের বার্তাপ্রাপ্তি অতি বিলম্বেই ঘটিত, সুতরাং প্রাচীন ভারতে সাত বর্ষ কাল এ বিষয়ে প্রচুর নহে। তখনকার কালে প্রতিবাসি-স্বজনদের সমবেদনা থাকায় আত্মীয় জনের শিক্ষা-পালনের অসুবিধা হইতেছে না ইহাও প্রবাসীর হৃদয়ে জাগরুক থাকিত, তাই প্রাচীন ভারতে বার বর্ষ কাল অনুদ্দেশ মৃত্যু নিশ্চয়ের প্রমাণ হওয়া অসম্ভব ছিল না।

এবং প্রাচীন ভারতের পক্ষে বার বৎসর অনুদ্দেশকে যে মৃত্যু প্রমাণ বলা হইয়াছে সে বিষয়ে প্রণিধান করিলে এই প্রকার মর্শ্ম অবগত হওয়া যায় যে—

জীবগতি অর্থাৎ জীবের অবস্থান্তর প্রতি দ্বাদশ বর্ষ অন্তর ঘটিয়া থাকে, ইহা ধর্ম্মশাস্ত্রের ন্যায় প্রাচীন ভারতীয় বিজ্ঞানশাস্ত্রেও প্রতিষ্ঠিত আছে। সে বিষয়ে অনুগত কারণ এই একটী দেখা যায় যে—

জীব অর্থাৎ বৃহস্পতি গ্রহের গতি, স্থিতি, দৃষ্টি ও সঞ্চারণ মর্ত্যবাসী জীবের শুভাশুভ ফলের সঙ্গে জড়িত হইয়া আছে, কারণ গ্রহগণের বাস্তবশক্তি মানবদেহেও বর্তমান; ইহা জ্যোতিষের সিদ্ধান্ত। ঐ বৃহস্পতি-সংজ্ঞিত জীব প্রতি বার বৎসরে রাশিচক্র ভ্রমণ করিয়া থাকেন ও দ্বাদশবর্ষান্তে গতি-বিভাগানুসারে সেই বার বৎসর পূর্ব্বকার প্রথম রাশিতেই আসিয়া বসেন। সুতরাং ঐ বৃহস্পতি-সংজ্ঞিত জীবের ঐ আবর্তনের নব

পর্যায় পুনর্জন্মরূপে নির্দিষ্ট আছে, এবং ঐ জীবের আবর্তনের নব পর্যায়কে মর্ত্যবাসী জীবের পুনর্জন্মের সহিত তুলনা করা যায়।

কারণ যদিও দৃশ্যমান জীবিত মানবের এই প্রকার বার বৎসরে জৈবাবর্তন ঘটিলেও প্রত্যক্ষ প্রমাণের প্রবলতা-হেতু পুনর্জন্মরূপে উহা গৃহীত হয় না, তথাপি সূক্ষ্মভাবে প্রণিধান করিলে বুঝা যায় যে, মানব প্রতি বার বৎসরে একটা নূতন আকার ধারণ করে, ইহাকেই পুনর্জন্ম বলা যায়। বর্তমানে সকলেই দেখিয়া থাকেন যে নিজের প্রতি বার বৎসর অন্তরের ছবি একত্র করিলে কেমন পরিবর্তন ঘটিয়াছে সুতরাং তাহা যে পুনর্জন্মেরই রূপান্তর তাহা সহজেই বুঝা যায়। অন্য প্রমাণের অসম্ভাববশতঃ এই জৈবাবর্তনই জীবের জন্মাবর্তনরূপে গ্রহণ করা হয়। এই আবর্তনকে লক্ষ্য করিয়াই প্রাচীন ভারতীয় শাস্ত্রকারেরা পতিত ব্যক্তির প্রায়শ্চিত্ত ও দ্বাদশ-বর্ষব্যাপী ব্রত নির্দেশ করিয়াছেন; দ্বাদশবর্ষ ধরিয়া ব্রতকারী পতিত ব্যক্তির পতিত জীবন অপগত হইয়া শুদ্ধজীবন আরম্ভ হয় সুতরাং এই ব্রতের মূলেও সেই জৈবাবর্তন-বিজ্ঞানই নিহিত আছে বুঝা যায়।

আরও দেখা যায় ব্রাহ্মণ বালকের দ্বাদশ বর্ষ পর্য্যন্ত উপনয়ন না হইলে প্রায়শ্চিত্ত করিতে হয়, প্রায়শ্চিত্ত না করিলে দ্বিতীয় জৈবাবর্তন কাল (অর্থাৎ বার বৎসর) পর হইতে তাহার আরম্ভ নূতন জীবন অশুদ্ধ হইয়া চলিতে থাকে। সুতরাং এই জৈবাবর্তনে অর্থাৎ দ্বাদশ বৎসরাতিক্রমে জীবের নূতনত্বের ঘটনার ন্যায় নিরুদ্দিষ্টের পূর্ববানুবৃত্ত জীবন স্থলেও একটা ব্যবচ্ছেদ আনিয়া দেয়, সেই ব্যবচ্ছেদকেই প্রাচীন ভারতের শাস্ত্রকারেরা মরণাবধারণের প্রমাণরূপে নির্দেশ করিয়া গিয়াছেন। অগাধ বীশক্তিশালী আপুজনদিগের দূরদর্শন প্রণিধান করিয়া বুঝিলে বিস্মিত ও পরিতৃপ্ত হওয়া যায়।

পঞ্চাস্তরে ইংরাজী আইনের ১০৭ ধারায় সাত বৎসরের অনুদেশকে মৃত্যুর নিশ্চয়তার প্রমাণ বলা যে প্রচুর যুক্তিসহ তাহাও বিবেচনা করা যায় না, এবং ভোগাসক্ত মমতাবদ্ধ জীবের পক্ষে সাত বৎসর নিরুদ্দেশই মরণাবধারণের পক্ষে পর্যাপ্ত প্রমাণ তাহাও বলা যায় না, কারণ তিন বৎসর নিরুদ্দিষ্ট ব্যক্তির পক্ষে সেই যুক্তি মরণাবধারণের কেন সহায়তা না করিবে? যেহেতু যত কম সময় হইবে ততই ভোগাসক্তদের পক্ষে অনুকূল হইয়া

থাকিবে। আবার ইংরাজী আইনেই বার বৎসর ভূসম্পত্তিভোগে পূর্ব স্বামীর স্বত্বনাশ প্রভৃতির কথা প্রমাণরূপে বলিয়াছেন, তাহা যে আমাদের উদ্ভাবিত যুক্তিসহ ইহাই বুঝা যায়।

ফলতঃ নিরুদ্দেশস্থলে মরণাবধারণে দ্বাদশবর্ষব্যাপী সংবাদ অভাবই যে প্রমাণ হইবে তাহার পক্ষে পূর্ব পূর্ব যুক্তির ন্যায় অনুসন্ধান করিলে আরও যুক্তি মিলিতে পারে, প্রবন্ধের কলেবর-বাহুল্যভয়ে বিরত হইলাম। চাতুর্বর্ণ্যসমাজ এখনও সাধারণতঃ নিজের ভিতর ধর্ম্যকার্য্যে প্রাচীন ভারতের দ্বাদশবর্ষ-অনুদ্দেশকেই মৃত্যুর প্রমাণরূপে গ্রহণ করিয়া থাকেন।

কিন্তু ইংরাজী আইনের মতে এই বিষয়ে বিশেষ যুক্তি দেখা যায় না, স্তত্রাং বিবেচনা হয় এ বিষয়ে ইংরাজী আইনে রাজার আজ্ঞাই বলবৎ হইয়াছে।

দ্বিতীয়—

আর্ষব্যবহার-শাস্ত্রে ব্যবহারবিষয়ে যে ত্রিবিধ মানুষ-প্রমাণ অপেক্ষিত হইয়াছে, তন্মধ্যে ভোগ তৃতীয় প্রমাণরূপে নির্দিষ্ট আছে। কিন্তু বর্তমান রাজকীয় ব্যবহারগ্রন্থে সাক্ষী ও লেখ্য এই দুই প্রকার প্রমাণার্থ উপায় উল্লিখিত আছে। ইংরাজী ব্যবহারবিদগণের অভিমত এই যে, ভোগপ্রমাণ সাক্ষী ও লেখ্যপ্রমাণকে অপেক্ষা করে স্তত্রাং উহা সাক্ষীর মত স্বতঃপ্রমাণ নহে, ভোগ সাক্ষীর জ্ঞাপনীয় একটা বিভাগমাত্র; সাক্ষী দ্বারা ভোগ প্রমাণিত হইলে উহা স্বত্বজ্ঞাপক হইতে পারে বটে, কিন্তু তাহ প্রমাণপদবাচ্য নহে, স্বত্বপ্রমিতি বিষয়ে ব্যাপারমাত্র।

এ বিষয়ে আর্ষতত্ত্ববিদগণের বক্তব্য এই যে, সাক্ষী ও লেখ্যের সমানাসনে ভোগও স্থান পাইবার যোগ্যতা রাখে, তাহার কারণ—স্বত্ব, ইহা কেবল স্বাবর-সম্পত্তির বিষয়ে নহে, জন্ম-সম্পত্তিতেও উহা আছে এবং ঐ সকল প্রমাণ উভয় স্বত্বেও প্রযোজ্য।

অশ্ব-গবাদি পশুস্থলে লিখিত সাক্ষী না থাকিলেও ভোগ আপনার সামর্থ্য আপনিই প্রকাশ করে, যেহেতু যেখানে বিবাদাস্পদ গবাদি পশুকে ভোগাধীন ভোক্তার আদেশ পালন করিতে দেখা যায়, তথায় ভোগই স্বতঃপ্রমাণ বিবাদ-নির্ণায়ক হয়; যদি তথায় এ আপত্তি উঠে যে ঐ পশুই ভোগের নীরব সাক্ষী, তাহার উত্তরে বলা যায় আর্ষশাস্ত্রকারেরা অর্থশাস্ত্রে সাক্ষিনির্দেশ-

কালে পশুকে সাক্ষিশ্রেণী মধ্যে রাখেন নাই। আর যদি এ আপত্তি উঠে যে, পশুর আত্মপালনকার্যের দ্বারা জ্ঞাপিত হইলে যখন প্রমাণ হইতেছে, তখন ভোগ স্বতঃপ্রমাণ কিরূপে বলি ?

ইহার উত্তরে বলা যায়—

তাহা হইলে লিখিত ও সাক্ষী এই দুইটীও স্বতঃপ্রমাণ হইতে পারে না, কারণ লিখিতের পাঠের অর্থজ্ঞান হইলে পর যখন তাহার প্রমাণ স্মৃতরাং লিখিতকে কিরূপে স্বাধীনপ্রমাণ বলা যায়। কেবল পত্রখানি উপস্থাপিত হইলেই প্রমাণ হয় না, এবং সাক্ষীরও দৃষ্টি বা শ্রুতি বিবাদ-বিষয়ের অবতারণা ভিন্ন কেবল সেই ব্যক্তির উপস্থিতিই স্বতঃপ্রমাণ নহে। অতএব ফলানুসারে ইংরাজী আইনের সঙ্গে প্রাচীন ভারতীয় অর্থশাস্ত্রের ব্যবস্থাবৈষম্য এই বিভাগবৈষম্যের কারণ। প্রাচীন শাস্ত্রে তিনটাই ফলদ্বারা প্রমাণরূপে গণ্য, আর রাজকীয় ব্যবহার-শাস্ত্রে দুইটী প্রথম হইতেই প্রমাণরূপে পরিগৃহীত। যতক্ষণ লিখিত সাক্ষী বা ভোগের ফল পরিজ্ঞাত না হওয়া যায় ততক্ষণ তাহা প্রমাণরূপে গণ্য হইতে পারে না—ইহাই যুক্তিযুক্ত নতুবা লিখিত পত্র পঠিত হইল না, সাক্ষী মুক হইয়া রহিল, ইহাতে কি তাহা প্রমাণরূপে গণ্য হইতে পারে ?

বিশেষতঃ রাজকীয় অধিকরণে সাক্ষীর অভাব হইলে লিখিতও যখন অপ্রমাণ তখন ভোগের নায় লিখিতও পরতঃপ্রমাণ। সাক্ষীর সহিত সমান আসনে লিখিতেরও স্থান হইতে পারে না—যদি ঐরূপে লিখিতের প্রমাণ পর্যায়ে স্থান হইল, তবে ভোগেরই বা স্থান না হইবে কেন ? বিশেষতঃ তৎকালীন দেশে প্রথম বিচার গ্রামপতির দ্বারা হইত, বিচারক স্বয়ংই বিবাদ-বস্তুর ভোগবিষয়ে প্রত্যক্ষদর্শী, স্মৃতরাং তথায় ভোগ-প্রমাণে স্বত্বনির্দ্ধারণের জন্য সাক্ষীর প্রয়োজন ছিল না।

যদি বলা যায় বিচারক গ্রামপতিই সাক্ষী, তাহা কিন্তু আর্থশাস্ত্রের অসম্মত, কারণ তাঁহারা সাক্ষিশ্রেণী হইতে বিচারককে বর্জন করিবার কথাই বলিয়াছেন।

কারণ সাক্ষীর অবস্থা, লক্ষণ ও স্থান কিছুই বিচারকে খাটে না। অতএব ত্রিবিধ প্রমাণের অভাব-ক্ষেত্রেও স্বত্ব-নির্দ্ধারণ দুষ্কর নহে, স্মৃতরাং

অর্থশাস্ত্রে ভোগকে স্বতঃপ্রমাণ বলা যুক্তিযুক্ত বিবেচনা হয়। তাই পৃথক ভোগপ্রমাণের কথা প্রবন্ধে বলিয়াছি।

বিশেষতঃ ভোগ, সাক্ষী, লেখ্য, অনুমান, শপথ ও দিব্য—এই ছয় প্রমাণের মধ্যে পূর্ব পূর্ব বলবৎ, অর্থাৎ সর্বাপেক্ষা ভোগই বলবৎ প্রমাণ, তাই অর্থ-অর্থশাস্ত্র ভোগকে স্বাধীন প্রমাণ মধ্যে গণনা করিয়াছেন।

বর্তমান আইনে দলীল-উপযোগী বিচার কার্যে মোখিক প্রমাণ গ্রাহ্য হয় না, কিন্তু যদি ঐ দলীল থাকা ও পরে নষ্ট হওয়া প্রমাণিত হয়, তবে সেই মোখিক প্রমাণও পরিগৃহীত হইয়া থাকে। প্রাচীন আইনেও বলা আছে “অসতো দ্রষ্টৃদর্শনম্,” (নারদ-স্মৃতিঃ) অর্থাৎ দলীল না পাওয়া গেলে লেখ্যের বর্ণিত বিষয় বিশ্বাস্য সাক্ষীর দ্বারা নিরূপিত হইলে ঐ নির্ণয় বিশ্বাস্য, বিচারকার্য তাহাওই স্থনিষ্পন্ন হইবে। স্মৃতরাং এ বিষয়টিতে ‘প্রাচীন ভারতায় আইনের ও বর্তমান আইনের কোন অসামঞ্জস্য দেখা যায় না।

প্রাচীন ভারতে বর্তমানের মত ব্যক্তিমাত্রেই যে বিচারকার্যের সূক্ষ্ম মীমাংসার পক্ষপাতী ছিলেন, তাহা তাঁহাদের অর্থশাস্ত্র আলোচনায় জ্ঞাত হওয়া যায়।

বর্তমান শাসনের ফলেও প্রজার ভয় বিদূরিত হইয়াছে, ব্যক্তিমাত্রেই আত্মীয়-পরিজনের সহিত নিঃশঙ্কচিত্তে স্থখে কালযাপন করিতে পারিতেছে।

আমিও পরোক্ষ ভগবানের প্রত্যক্ষমূর্তি রাজার সদাশ্রয়কে অন্তরের সহিত কৃতজ্ঞতা জানাইয়া তাঁহারই অবয়বস্বরূপ প্রমাণবিষয়ে ক্ষুদ্র পরিচয় দিতে অগ্রসর হইলাম; এবং যে মহানুভব ব্যক্তি এই প্রবন্ধের নিমিত্ত বাষিক স্থায়ী পুরস্কারের ব্যবস্থা করিয়া যশঃশরীরে বিরাজ করিতেছেন, সেই স্বর্গীয় মহাত্মা যোগেন্দ্রচন্দ্র ঘোষ মহোদয়ের মহৎ উদ্দেশ্যের প্রশংসা সহকারে পারত্রিক কল্যাণকামনা করিতেছি। ইতি—

ভাটপাড়া, ২৪ পরগণা, }  
১০ই এপ্রিল, ১৯৩০ }

মহামহোপাধ্যায় শ্রীকমলকৃষ্ণ স্মৃতিতীর্থ

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[পরিশিষ্টের মধ্যে প্রমাণবিষয়ে পূর্বে অনুপস্থাপিত কয়েকটি ক্ষুদ্র ক্ষুদ্র বিষয়ের অবতারণা আছে।]





# স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনামূলক প্রবন্ধ

## প্রমাণ

বাহার সাহায্যে সম্যকরূপে তথ্যের নির্ণয় হয় তাহাকে প্রমাণ বলে ।

ব্যবহারকার্যে অর্থাৎ ধর্ম্মাধিকরণে উপস্থাপিত বিবাদে সন্দিগ্ধবিষয়ের নির্ণায়ক দুইটী মূল প্রমাণ শাস্ত্রে নির্দিষ্ট আছে, ১ম মানুষ, ২য় দৈবিক । <sup>১</sup>

মানুষ অর্থাৎ মনুষ্যের আয়ত্ত প্রমাণ, ইহাও আবার তিনভাগে বিভক্ত, ১ম সাক্ষী, ২য় লেখা, ৩য় ভোগ । <sup>২</sup>

যদিও প্রমাণপরিচায়ক মৌলিক ঋষিবাক্যে সাক্ষিপ্রমাণ কোথায়ও দ্বিতীয়, কোথায়ও বা তৃতীয় বলিয়া উল্লেখ দেখা যায়, তথাপি শাস্ত্রকারেরা বহুস্থলে ব্যবহারকার্যে সাক্ষিপ্রমাণেরই প্রাধান্ত অনুসরণ করিয়াছেন; যেমন সাহসাদি কার্যে অর্থাৎ কৌজদারী বিবাদে এবং ক্রয়-বিক্রয়-ব্যবহারে ও ভৃত্যাদির বেতনাদি ঘটিত বিবাদে ( সাক্ষীতর প্রমাণ না থাকায় ) সাক্ষীকেই প্রধান প্রমাণরূপে নির্দেশ করা আছে । <sup>৩</sup>

সাক্ষী বারা যেরূপ সন্দিগ্ধ বিষয়ের সন্দেহ আমূল নিরাকৃত হয়, এবং সত্যাবিস্কারের সঙ্গুপায় সহজে প্রকটিত হয়, প্রমাণান্তরে তদ্রূপ হওয়া সহজ নহে । অতএব মানুষপ্রমাণত্রয়ের মধ্যে যুক্তি ও তর্ক দ্বারা সাক্ষীকেই

<sup>১</sup> তৎসাদ্বনন্ত দ্বিবিধং মানুষঃ দৈবিকন্তুণা ।

শুক্লস্মৃতি: ৪ অ: ১৬৩ ।

<sup>২</sup> প্রমাণং লিখিতং ভুক্তিঃ সাক্ষিণশ্চেতি কীর্তিতম্ ।

এষানন্ততমাতাবে দিব্যাগ্নতমমুচ্যতে ॥

যাজ্ঞবল্ক্য-ব্যবহারাদ্যায়: ২২ ।

<sup>৩</sup> লিখিতং সাক্ষিণো ভুক্তিঃ প্রমাণং ত্রিবিধং স্মৃতম্ ।

বশিষ্ঠ-স্মৃতি: ১১ অ: ।

প্রধান ও নির্দোষ প্রমাণ বলা যায়। এজন্য মানুষ প্রমাণের কথা বলিবার মুখে প্রথমেই সাক্ষ্যরূপ প্রমাণ বিষয়ের আলোচনায় প্রবৃত্ত হইতেছি। পরে দৈবিক প্রমাণ বিষয়ের আলোচনা উপস্থিত করা যাইবে।<sup>১</sup>

### সাক্ষিগদ্যর্থ

অক্ষির অর্থাৎ দর্শনেন্দ্রিয়ের সহযোগে যে অনুভব হয় তাহার নাম সাক্ষ্য। একরূপ অনুভব অর্থাৎ জ্ঞান যাহার আছে তাহাকেই সাক্ষী বলে। অর্থাৎ যিনি স্বচক্ষে ঘটনা দেখিয়াছেন তিনিই প্রত্যক্ষদর্শী সাক্ষী।<sup>২</sup>

প্রত্যক্ষদর্শীর ঞ্চায় যিনি ঘটনাটী অর্থাৎ বিবাদবিষয়ীভূত ব্যাপার শ্রবণেন্দ্রিয়ের সাহায্যে অবগত আছেন অর্থাৎ প্রত্যক্ষদর্শীর মুখে শুনিয়া জ্ঞাত হইয়াছেন তিনিও সাক্ষিমধ্যে গণ্য হয়েন। তাঁহার সাক্ষ্যও প্রমাণরূপে গৃহীত হয়।<sup>৩</sup>

ইহা দ্বারা স্থির হইল যে বিচারার্থ উপস্থাপিত বিষয় যিনি দেখিয়াছেন বা যিনি শুনিয়াছেন উভয়েই সাক্ষী হইতে পারেন।

এই উভয়বিধ সাক্ষীর অভাবে যিনি শ্রোতার মুখে শুনিয়াছেন একরূপ পরম্পরায় শ্রবণকারীও যে স্থলবিশেষে সাক্ষী হইতে পারেন তাহা পরে বিবৃত হইবে।

১ দ্বিপ্রকারা ক্রিয়া প্রোক্তা মানুষী দৈবিকী তথা।

সাক্ষিলেখ্যামানঞ্চ মানুষী দ্বিবিধা স্মৃতা ॥

ব্যবহারতস্তে বৃহস্পতিবচনম্।

২ সমক্ষদর্শনাং সাক্ষ্যং শ্রবণাক্ষেপ সিধ্যতি।

মহুসংহিতা ৮ অঃ ২৪।

৩ সাক্ষিণামপি যঃ সাক্ষ্যমুপয্যাপরি ভাষতে।

শ্রবণাং শ্রাবণাচ্চাপি স সাক্ষ্যন্তরসংজ্ঞিতঃ ॥

নারদ-স্মৃতিঃ।

অর্থি-প্রত্যর্থি-সাক্ষিগদ্যাদনুভূতস্ত প্রাগ্ যথা।

দর্শনে শ্রবণে চৈব স সাক্ষী তুল্যবাগ্ যদি ॥

শুক্লনীতি-সারঃ ৪ অঃ ১৮৫।

## সাক্ষীর প্রকার-ভেদ

সাক্ষী প্রথমতঃ দুই প্রকার নিরূপিত আছে, কৃত সাক্ষী ও অকৃত সাক্ষী । ১

তাহার মধ্যে কৃত সাক্ষী পাঁচ প্রকার । ১ম লিখিত সাক্ষী অর্থাৎ অর্থীর আহ্বানমতে আসিয়া লিখিত পত্রাদিতে স্বাক্ষরকারী । ২য় স্মারিত সাক্ষী ২ অর্থাৎ যাহাকে বাদী স্বার্থসাধনোদ্দেশে বারংবার ঘটনা শুনাইয়া রাখিয়াছে । ৩য় যাদৃচ্ছিক সাক্ষী ৩ অর্থাৎ যিনি যদৃচ্ছাক্রমে ঘটনাক্ষেত্রে উপস্থিত হইয়াছেন বা অনুরোধে পড়িয়া আসিয়াছেন । ৪র্থ গূঢ় সাক্ষী ৪ অর্থাৎ যে ব্যক্তি বাদী ও বিবাদীর অসমক্ষে ঘটনা শ্রবণ করিয়াছেন । ৫ম উত্তর সাক্ষী ৫ অর্থাৎ যে

- ১ একাদশবিধঃ সাক্ষী শাস্ত্রে দৃষ্টো মনোবিভিঃ ।  
কৃতঃ পঞ্চবিধো জ্ঞেয়ঃ বড়িধোহকৃত উচ্যতে ॥  
লিখিতঃ স্মারিতশ্চৈব যদৃচ্ছাভিজ্ঞ এন চ ।  
গূঢ়শ্চোত্তরসাক্ষী চ সাক্ষী পঞ্চবিধঃ স্মৃতঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ১৪৮ ।

- ২ অর্থিনা স্বয়মানীতো যো লেখ্যে সন্নিবেশ্তে ।  
স সাক্ষী লিখিতো নাম স্মারিতঃ পত্রকাদৃতে ॥  
বস্তু কার্য্যপ্রসিদ্ধার্থং দৃষ্ট্বা কার্য্যং পুনঃ পুনঃ ।  
স্মার্য্যতে চার্থিনা সাক্ষী স স্মারিত ইহোচ্যতে ॥
- যদৃচ্ছয়াগতঃ সাক্ষী ক্রিয়তে স যাদৃচ্ছিকঃ ।
- ৪ অর্থিনা স্বার্থসিদ্ধার্থং প্রত্যর্থিবচনং স্মৃটম্ ।  
যঃ শ্রুত্যাতে স্থিতো গূঢ়ো গূঢ়সাক্ষী স উচ্যতে ॥
- ৫ সাক্ষিণামপি যঃ সাক্ষ্যমুপযুঁপরি ভাষতে ।  
শ্রবণাৎ শ্রাবণাদ্যপি স সাক্ষ্যন্তরসংজিতঃ ॥

নারদ-কাত্যায়ন-স্মৃতি ।

উদ্দিষ্টসাক্ষিণি মৃতে দেশান্তরগতেহপি বা ।

তদভিহিতশ্রোতারঃ প্রমাণং নাত্র সংশয়ঃ ॥

ব্যবহারতত্ত্বতঃ বিজ্ঞবচনম্ ।

ব্যক্তি সাক্ষাৎ সাক্ষীর মুখে ঘটনা শুনিয়াছেন অথবা সে বিষয়ে সাক্ষীদের জল্পনা অন্তরালে থাকিয়া শুনিয়াছেন । এই পাঁচ প্রকার সাক্ষী কৃত সাক্ষী ।

ইংরাজী Evidence Act এ ৬০নং ধারায় ৫ম সাক্ষীটী অগ্রাহ্য বলিয়া উল্লেখ আছে ।

সাধারণতঃ দীর্ঘকালেও যাহার বুদ্ধি, স্মৃতি ও শ্রবণেন্দ্রিয় বিকল হয় নাই এইরূপ ব্যক্তিই সাক্ষী হইবার যোগ্য । <sup>১</sup>

অকৃতসাক্ষী অর্থাৎ অনির্দিষ্ট সাক্ষী ছয় প্রকার হইয়া থাকে । <sup>২</sup>

১ম । গ্রাম অর্থাৎ বিবাদক্ষেত্র এবং বিচারক । ( বিচারকের সাক্ষী ইংরাজী আইনে ১২১ ধারায় নিরুদ্ধ হইয়াছে । )

২য় । অর্থী, প্রত্যাধী ও সাক্ষীর বাক্যগুলি বিচারালয়ে যিনি লিখিয়াছেন এবং বিচারকের সহযোগী সভ্যগণ ।

৩য় । স্বয়ং রাজা ( যদি রাজার সম্মুখে ঘটনা হইয়া থাকে ) । ( সংহিতাকার মনু রাজার সাক্ষ্য \* নিষেধ করিয়া ইহাই প্রতিপন্ন করিয়াছেন যে, রাজাকে মানিত সাক্ষী করা হইবে না, প্রয়োজনমতে যদি অকৃতসাক্ষী করা হয়, তবে ঐ অকৃত সাক্ষ্যস্থলে তাঁহাকে কোন প্রশ্নবিশেষ করা হইবে না । )

<sup>১</sup> যস্ত নোপহতা বুদ্ধিঃ স্মৃতিঃ শ্রোত্রঞ্চ সাক্ষিণঃ ।

সুদীর্ঘেণাপি কালেন স সাক্ষী সাক্ষ্যমহতি ।

নারদ-স্মৃতিঃ ৩ অঃ ১৭১ ।

<sup>২</sup> অথো পুনরনির্দিষ্টাঃ সাক্ষিণস্বকৃত্যঃ স্বধম্ ।

গ্রামশ্চ প্রাড্বিবাকশ্চ রাজা চ ব্যাহারিণাম্ ॥

কার্যোষভ্যক্তরে যঃ শ্রাদর্থিনা প্রহিতশ্চ যঃ ।

কুল্যাঃ কুলবিবাদেষু ভবেয়ুস্তেহপি সাক্ষিণঃ ॥

মনু-কাত্যায়ন-নারদ-স্মৃতয়ঃ ।

লেখকঃ প্রাড্বিবাকশ্চ সভ্যশ্চৈবানুপূর্ব্বণঃ ।

নৃপে পশুতি তৎকার্যং সাক্ষিণঃ সমুদাহতাঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ১৫৪ ।

ন সাক্ষী নৃপতিঃ কার্যো ন চ কারু-কুশীলবৌ ।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতায় সাক্ষ্যবিধির তুলনা ৫

৪র্থ। ঘটনার মধ্যবর্তী।

৫ম। বাদী কার্যব্যপদেশে প্রতিবাদীর নিকট যাহাকে পাঠাইয়াছিল সেই ব্যক্তি।

৬ষ্ঠ। গৃহবিবাদে সন্নিহিত স্কুলসম্মুখ ব্যক্তি।

এই ছয় প্রকার অকৃতসাক্ষী মানিত না হইয়াও সাক্ষী হইয়া থাকেন অর্থাৎ ব্যবহারবিশেষে প্রয়োজন-বিবেচনায় উপস্থিত মতে ইহাদের সাক্ষ্য লওয়া যায়।

এইরূপে মানিত ও অমানিত লইয়া একাদশ প্রকার সাক্ষী শাস্ত্রে নিক্রপিত আছে।

এক্ষণে জানিতে হইবে সাধারণতঃ কীদৃশ ব্যক্তি সাক্ষী হইতে পারেন।

তপোনিষ্ঠ, দাতা, সৎশ্রুজাত, সত্যবাদী, ধার্মিক, সরলস্বভাব, সম্পত্তি-শালী, পুত্রবান্ ও যথাসম্ভব বেদোক্ত ও স্মৃত্যুক্ত বর্ণের অনুরূপতা ব্যক্তিই সাক্ষী হইবেন।<sup>১</sup>

### প্রশস্ত সাক্ষী

যদি পূর্বোক্ত গুণসম্পন্ন হইয়া বা ইহার মধ্যে যথাসম্ভব গুণবান্ হইয়াও অভিযোগকারী বা অভিযুক্ত্যমানের সজাতি সর্বগ হন তবে তিনি প্রশস্ত সাক্ষী; অর্থাৎ ত্র্যক্ষণের ব্রাহ্মণ, ক্ষত্রিয়ের ক্ষত্রিয়, ইত্যাদি, এমন কি চণ্ডালের পক্ষে চণ্ডালই এবং রমণীর পক্ষে রমণীই প্রশস্ত সাক্ষী, অর্থাৎ এরূপ সাক্ষীই সর্ববথা প্রশংসনীয়।<sup>২</sup>

১ তপস্বিনে দানশীল্যঃ কুলীনাঃ সত্যবাদিনঃ।

ধর্মপ্রদানা ধাজবঃ পুত্রবন্তো ধনাবিতাঃ ॥

ত্র্যবরাঃ সাক্ষিণো জ্ঞেয়াঃ শ্রীতস্মার্ত-ক্রিয়ান্বিতাঃ।

যথাজাতি যথাবর্ণং সর্বৈ সর্বৈষু বা স্মৃতাঃ ॥

যাজ্ঞক্য-ব্যবহারাধ্যায়ঃ ৬৯।

২ জীগাং সাক্ষ্যং জিহ্বঃ কুর্য়ুঃ দ্বিজানাং সদৃশা দ্বিজাঃ।

শূদ্রাশ্চ সহঃ শূদ্রাণামন্ত্যানামন্ত্যযোনয়ঃ ॥

মনু ৮ অঃ ৬৮।

ব্যবহারবিশেষে অর্থাৎ নরহত্যা, পরস্পরদূষণ, চৌর্য্য, পরুষভাষণ ও প্রহারাদি সাহসকার্য্যে, ফলতঃ সকল প্রকার ফৌজদারী মামলায় ভিন্নবর্ণ ও ভিন্নজাতির লোক হইলেও সাক্ষী হইতে পারেন। এ সকল ক্ষেত্রে সাক্ষীর গুণাগুণ বিচারের আবশ্যকতা নাই।<sup>১</sup>

তবে ইহা অবশ্য দ্রষ্টব্য যে যাহারা সত্যবাদী, অলোভী ও কর্তব্যনিষ্ঠ তাহারাই সাক্ষী হইবার যোগ্য।

আর অভিযোগকারিণী ও অভিযুক্ত্যমানী রমণীর মামলায় রমণীই প্রথম সাক্ষী। এ ক্ষেত্রে রমণীর সাক্ষ্যই বলবৎ প্রমাণ।<sup>২</sup>

### সাক্ষীর সংখ্যা

অনুতঃ সংখ্যায় তিন জন সাক্ষী হওয়া চাই।<sup>৩</sup> পরন্তু চারি, পাঁচ, সাত বা নয় জন হইলে ভাল হয়। তবে সাহসের কার্য্যে অর্থাৎ ফৌজদারী বিচারে পূর্ব্বকথিত গুণসম্পন্ন এক ব্যক্তিও যদি বাদী প্রতিবাদী উভয়ের অভিমত হন ও ঘটনাটী সমাক্ জ্ঞাত থাকেন এরূপ যে কোন ব্যক্তি একাই গুণহীন হইলেও সাক্ষী হইতে পারেন।<sup>৪</sup>

<sup>১</sup> সাহসেযু চ সর্কেযু স্তেয়-সংগ্রহণেযু চ।

বাদগুণোশ্চ পারুযো ন পরীক্ষেত সাক্ষিণঃ ॥

মনু চ অঃ ১৩।

শুক্লনীতি ৪।৫।

মহুগ্যমারণং স্তেয়ং পরদারাভিমর্ষণম্।

পারুগ্যমুভয়ক্ষেতি সাহসং স্মাচ্চতুর্বিধম্ ॥

কাত্যায়ন-স্মৃতিঃ।

<sup>২</sup> জিয়ঃ স্ত্রীষু চ সাক্ষিণঃ।

ব্যবহারতত্ত্বে ব্যাস-স্মৃতিঃ।

<sup>৩</sup> নব সপ্ত পঞ্চ বা স্যুশ্চত্বারজ্জয় এব বা।

উভৌ তু শ্রোত্রিয়ৌ গ্রাহৌ নৈকং পৃচ্ছেৎ কদাচন ॥

ব্যবহারতত্ত্বধৃতং বৃহস্পতিবচনম্।

<sup>৪</sup> প্রমাণমেকোহপি ভবেৎ সাহসেযু বিশেষতঃ।

ব্যবহারতত্ত্বধৃতং ব্যাসবচনম্।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৭

ইহাই প্রাচীন ব্যবহারশাস্ত্রে নিয়ম দেখা যায়। বর্তমান ইংরাজী আইনে (Evidence Act) ১৩৬ ধারায় সর্বক্ষেত্রেই এক জনের অনধিক সাক্ষী থাকিলে তাহার সাক্ষ্য গৃহীত হইয়া থাকে।

এ বিষয়ে অন্ততম ভারতীয় ব্যবহারশাস্ত্রকার যাজ্ঞবল্ক্যের উপদেশের এই প্রকার নিপুণ তাৎপর্য বুঝা যায় যে, ঋণাদিঘটিত মামলায় অন্ততঃ উভয়ের মানিত দুই জন সাক্ষী না থাকিলে বিচার হইবে না। একটী সাক্ষীর উপর নির্ভর করিয়া ঐরূপ বিচার-নিষ্পত্তি কখনই সম্ভব হয় না।<sup>১</sup> তবে অনন্যোপায়স্থলে কদাচিৎ যদি উভয়ের মানিত এক ব্যক্তির সাক্ষ্যই লইতে হয়, তবে সে স্থলে ঐ ব্যক্তি শ্রোত্রিয় হইলে তাঁহার সাক্ষ্য লওয়া হইবে না ; এবং ঐরূপ এক জন সাক্ষী হইলে দীর্ঘকালেও যাহার বুদ্ধি, স্মৃতি ও চক্ষুঃকর্ণ প্রভৃতি ইন্দ্রিয়বর্গ বিকল হয় নাই, এরূপ পাত্র হওয়া চাই।<sup>২</sup>

### সাক্ষীর অযোগ্যতা

প্রাচীন ভারতীয় সভ্যতায় কতকগুলি ব্যক্তিকে পাঁচ প্রকার বিশেষ বশেষ কারণে সাক্ষীর অযোগ্যতা বলিয়া নির্দেশ করা আছে।<sup>৩</sup>

অনুভাবী তু যঃ কশ্চিৎ কুর্যাৎ সাক্ষাৎ বিবাদিনাম্।

অস্তুদেগ্নম্ভরণো বা শরীরস্তাপি চাত্যরে ॥

মমু ৮ অঃ ৬৯।

১ ত্রয়োহব্রাহ্মণ্যঃ পক্ষানুমতৌ বা দ্বৌ।

ঋণপ্রতি ন ত্রৈবিকঃ ॥

কৌটিল্যবচনম্।

২ উভয়ানুমতঃ সাক্ষী ভবত্যেকোহপি ধর্মবিৎ।

যাজ্ঞবল্ক্যঃ।

৩ অসাক্ষ্যাপি হি শাস্ত্রেহ স্মিন্ দৃষ্টঃ পঞ্চবিধো বৃশঃ।

বচনাদোষতো ভেদাৎ স্বয়মুক্তিমুক্তান্তরঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ১৫৬।



১ম। বচনাধীন, অর্থাৎ বচন-বলে—আপ্তজনের আজ্ঞানুসারে—  
তপোনিষ্ঠ, শ্রোত্রিয়, বৃদ্ধ ও সন্ন্যাসী ইঁহার সাক্ষী হইতে পারিবেন না। ১

এখানে শ্রোত্রিয় সম্বন্ধে ২ নিবন্ধকার রঘুনন্দন ভট্টাচার্য্য ব্যবহারতত্ত্বে  
একটী কাত্যায়ন ঋষির বাচ্য উল্লেখ করিয়া কারণও দেখাইয়াছেন। যেহেতু  
শ্রোত্রিয় নিজের অনুর্ত্তেয় বৈদিক কার্য্যে সর্ব্বদাই ব্যস্ত থাকেন,—তঁাহার পক্ষে  
পরের বিষয় বিস্মৃত হওয়া অবশ্যসম্ভাবী, এবং সাক্ষিরূপ লঘুকার্য্যে তঁাহার  
মত মহীয়ান্ ব্যক্তিকে নিয়োগ করা হইলে তিনি অন্তরে ক্ষুব্ধ হইতে পারেন,  
ইহা বিবেচনা করিয়া বিচারক তঁাহাকে কোন কথা জিজ্ঞাসা করিবেন না।

অতএব শ্রোত্রিয়, মান্ত সাক্ষী হইয়াও অকৃতসাক্ষীর মধ্যে পরিগণিত  
হইবেন।

২য়। দোষাধীন, অর্থাৎ যে ব্যক্তি চৌর্য্য, পরস্রীদূষণ প্রভৃতি  
সাহসকার্য্য করিয়াছে এবং যে ব্যক্তি নরহত্যা প্রভৃতি পাপকর্মে দূষিত  
এবং ধূর্ত্ত ও উগ্রস্বভাব, একরূপ ব্যক্তির নিকট প্রায়ই সত্য মিলে না, সূতরাং  
একরূপ দোষী ব্যক্তির সাক্ষ্য প্রমাণ হইবে না। ৩

৩য়। ভেদাধীন, অর্থাৎ সত্য নির্ণয় উদ্দেশে রাজা যাঁহাদিগকে সাক্ষি-  
রূপে আনাইয়াছেন তঁাহাদের মধ্যে যদি কেহ অর্থলোভে ভেদবুদ্ধিসম্পন্ন  
হইয়া অগ্ন সাক্ষীদের সঙ্গে বিভিন্ন কথা বলেন তবে সেই পৃথক্বাদীর সাক্ষ্য  
গ্রহণ করা হইবে না। ৪

১ শ্রোত্রিয়ান্তাপসা বৃদ্ধা যে চ প্রব্রজ্যাদয়ঃ।

অসাক্ষিগণে বচনান্নাত্র চেতুঃসঙ্গঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ১৫৮।

২ ব্যবহারতত্ত্বসন্দর্ভঃ।

৩ স্তেনাঃ সাহসিকাশচণ্ডাঃ কিতবা বধশাশ্চ যে।

অসাক্ষিগণে হৃষ্টহৃদন্তেষু সত্যং ন বিজ্ঞতে ॥

নারদ-স্মৃতিঃ ৩ অঃ।

৪ রাজ্ঞা পরিগৃহীতেষু সাক্ষিষেকার্থনিশ্চয়ে।

বচনং যত্র ভিজ্ঞত তে স্যার্ত্তেদাদসাক্ষিগণঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ।

স্বতন্ত্রমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৯

( Evidence Act ১৬৫ ধারার সঙ্গে সামঞ্জস্য আছে এবং ৫৪নং ফৌজদারী বিধির সঙ্গেও তুলনা আছে । )

৪র্থ। স্বয়ংকথনাধীন। অর্থাৎ যাহাকে সাক্ষিক্রমে আহ্বান করা হয় নাই এরূপ ব্যক্তি উপযাচক হইয়া যদি সাক্ষ্য দেয় তবে তাহাকে সূচী বলে। সেই সূচীর সাক্ষ্য প্রমাণ নহে। ইহার সঙ্গে ইংরাজী আইনের সামঞ্জস্য আছে । ১

৫ম। মৃতান্তর সাক্ষী। অর্থাৎ কোন ব্যক্তি কোন সময়ে কোন ঘটনা শুনাইবার পর মরিয়া গেল, সে ঘটনা উপলক্ষ্যে বিচারালয়ে কোন অভিযোগ আসিল না, সেখানে ঐ ঘটনা-শ্রবণকারী মৃতান্তরনামিত সাক্ষী। তাহার সাক্ষ্য নিম্প্রয়োজন বিবেচনায় গ্রাহ্য হইবে না । ২

কিন্তু মুমূর্ষু বা পীড়িত ব্যক্তির কাছে যদি ঘটনা শুনা থাকে তবে ঐ মুমূর্ষু বা পীড়িতের মৃত্যু হইলেও সেই ঘটনা-শ্রোতা মৃতান্তর সাক্ষী, হইলেও তাহার সাক্ষ্য প্রমাণরূপে গ্রাহ্য হইবে। ইংরাজী আইনের ৩২ ধারার কিছু অংশের সঙ্গে ইহার সামঞ্জস্য আছে । ৩

সাক্ষিণাং লিখিতানাঞ্চ নির্দিষ্টানাঞ্চ বাদিনাম্ ।

তেষামেকোহন্তথাবাদী ভেদাৎ সর্বো ন সাক্ষিণঃ ॥

নারদ-স্মৃতি ৩ অঃ ।

১ অনির্দিষ্টস্ত সাক্ষিভ্যে স্বয়মেবৈত্য যো বদেৎ ।

সূচীত্বাক্তঃ সশাস্ত্রেণ ন স সাক্ষিভ্বমর্থিত ॥

নারদ-স্মৃতি ৩ অঃ ।

২ যোহর্থঃ শ্রাবয়িতব্যঃ শ্রান্তস্মিন্নসতি চার্খিনি ।

ক তদ্বদন্তু সাক্ষিভ্বমিত্যস্য সাক্ষী মৃতান্তরঃ ॥

নারদ-স্মৃতি ৩ অঃ ১৩২ ।

৩ মৃতান্তরোহর্থিনি প্রেতে মুমূর্ষু শ্রাবিতাদৃতে ।

নারদ-স্মৃতি ৩ অঃ ১৫৩ ।

শ্রাবিতেনাতুরেণাপি যদ্বর্থো ধর্মসংহিতঃ ।

মৃতোহপি তত্র সাক্ষী স্তাৎ সটস্ চার্বাহিতাদিসু ॥

যাহারা সাক্ষী হইবেন না তাহাদের পরিচয় ।

স্ত্রীলোক, বালক, বৃদ্ধ, ধূর্ত, মাতাল, পাগল, ব্রহ্মহত্যাকারী, নটবৃত্তি-জীবী, কৃত্রিমলিপিকর অর্থাৎ জালিয়াৎ, ইন্দ্রিয়শক্তিবহীন ( অন্ধ, বধির, মুক প্রভৃতি ), পতিত, বন্ধুলোক, সহায়ভূত, শত্রু, বাদী বা বিবাদীর সঙ্গে অর্থসম্বন্ধে সম্পৃক্ত, চোর, পরস্পরদূষণাদি সাহস-কার্য্যকারী, দোষী বলিয়া জ্ঞাত, এবং জ্ঞাতিজনের বিদেষভাজন প্রভৃতি ( মোট ১৯ প্রকার ) লোকেরা সাক্ষী হইতে পারিবে না । ১

এই অসাক্ষীর পরিচয়ে যাজ্ঞবল্ক্য পরিশেষে “প্রভৃতি” পদ লিখিয়াই নিবৃত্ত হইয়াছেন । সুতরাং অন্যান্য স্মৃতিকর্তাদের অভিপ্রায়মতে ইহাদের অপেক্ষা আরও যে অনেকগুলির সাক্ষিত্বে নিষেধ পাওয়া যায় তাহাও নিম্নে দেখান যাইতেছে ।

ইংরাজী (Evidence Act এর) ১১৮ ধারা ও ১১৯ ধারাতেও উপরি-গণিত ব্যক্তিদের অধিকাংশেরই সাক্ষী না হইবার কথা বলা আছে ।

ঋষি বিশেষের মতে সাক্ষী হইবার অযোগ্যদিগের তালিকা ।

গৃহস্থিত চিরদাস, ছলব্যবহারী, শ্রোত্বের অযোগ্য, প্রমাদযুক্ত, সর্বদাভ্রান্ত, ব্যসনাসক্ত, গ্রামযাজী, দীর্ঘপথগামী, সমুদ্রযাত্রী বণিক্, সন্ধ্যাসী, চিররোগী, বিকলাঙ্গ, একক, শ্রোত্রিয়, আচারহীন, ক্লীব, নাস্তিক, জাতকস্মাদি-সংস্কারবর্জিত, পত্নীত্যাগী, অগ্নিত্যাগী, অযাজ্যযাজী, একপাত্রের অশ্রের সহিত ভোজনকারী, গুপ্তচর, জ্ঞাতি, সহোদর, কুষ্ঠাদিমহারোগের চিহ্ন-যুক্ত, বিষক্রেতা, বিষবিক্রেতা, সর্পজীবী (সাপুড়ে), কদর্যা, শূদ্রাগর্ভজাত, উপ-পাতকী, খেদযুক্ত, হঠকারী, শ্রান্ত, হতসর্বস্ব, চাণ্ডাল, ব্রহ্মচারী, বিকলেন্দ্রিয়,

১ স্ত্রী-বাল-বৃদ্ধ-কিতব-মন্তোন্নতাভিশস্তকাঃ ।

রজাবতারি-পাষাণ্ড-কুটকৃদ্ধিকলেদ্রিয়াঃ ॥

পতিতাপ্রার্থসম্বন্ধি-সহায়-রিপু-তস্করাঃ ।

সাহসী দৃষ্টদোষশ্চ নির্ধূতাশ্বসাক্ষিণঃ ॥

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ১১

ভূতাবিষ্ট (ভূতে পাওয়া), পক্‌তৈল-প্রস্তুতকারী, রসাদির মূলদ্রব্য-বিক্রেতা, রাজবিদ্যেযভাজন, দৈবজ্ঞ, হিংস্রক, আত্মবিক্রয়ী, রাজা কর্তৃক বধ্যস্থানে বধের কার্যে নিযুক্ত, সাধারণ রাজভৃত্য, হীনান্দ্র, ভাৰ্যাদ্বারা জীবিকানির্বাহক, কুনখী, শ্যাবদন্ত, মিত্রদ্রোহী, শৌণ্ডিক, ঐন্দ্রজালিক (বাজিকর), লোভী, উগ্রজাতি, পশুপক্ষী মারিয়া জীবিকাসংগ্রহী, সাধারণের অপ্রিয়, রাজার বধ্যস্থানে বধকার্যে নিযুক্ত, চক্ষু-প্রস্তুতকারী, পঙ্গু, অভিচারকর্মের প্রযোক্তা, সন্ন্যাসধর্ম্য হইতে অলিত, রাজসেবক, নিষিদ্ধ মাংসাদির বিক্রেতা, ব্রাহ্মণ, স্বধর্ম্য-চ্যুত, কুসৌদজীবী ব্রাহ্মণ, নীচসেবী ব্রাহ্মণ, অত্যন্ত স্তাবক, পিতাপুত্রের ভেদ-সম্পাদক এবং পিতার সঙ্গে বিবাদকারী। (মোট ৭২)

পূর্বোক্ত যাজ্ঞবল্ক্যভিষত উনবিংশতি প্রকার অসাক্ষী এবং নারদাদির নির্দেশ-মতে এই দ্বাসপ্ততিপ্রকার অধিক অসাক্ষী—এই উভয়ের সমাবেশে সর্বশুদ্ধ একনবতি প্রকার লোক অসাক্ষী বলা হইল। সম্ভবাসম্ভব ক্ষেত্র বিবেচনায় ইহাদের সাক্ষ্য অগ্রাহ্য ধরিতে হইবে। কারণ ঋণঘটিত ব্যবহারেই ত্যাজ্যতা সম্ভবপর হয়। সাহস-কার্যে (কোজদারীতে) সম্ভব হয় না।

দাস-নৈকৃতিকাশ্রদ্ধ-বৃদ্ধ-স্ত্রী-বাণ-চাক্রিকাঃ ।  
মভোন্মত্ত-প্রমত্তাৰ্ত্ত-কিতব-গ্রামযাজকাঃ ॥  
মহাপথিক-সামুদ্রবণিক-প্রব্রজিতাতুরাঃ ।  
ব্যঙ্গৈক-শ্রোত্রিয়াচারহীন-ক্লীবকুশীলবাঃ ॥  
নাস্তিক-ব্রাত্য-দারাগ্নিত্যাগিনোঃ যাজ্ঞযাজকাঃ ।  
একস্থালীসহাধারিচর-জ্ঞাতি-সনাভয়ঃ ॥  
প্রাগ্‌দৃষ্টদোষ শৈলুষ বিষজীব্যাহিতুণ্ডিকাঃ ।  
গরদাগ্নিদ-কীনাশ-শূদ্রাপুত্রোপপাতিকাঃ ॥  
ক্লাস্ত-সাহসিক-শ্রান্ত-নিধনাস্ত্যাবসায়িনঃ ।  
ভূতাবিষ্ট-বৃপদ্বিষ্ট-বর্ষনক্ষত্রস্থচকাঃ ।  
অঘশংস্ত্রাঘবিক্রেতৃ-হীনান্দ্র-ভগবন্তয়ঃ ॥  
কুনখী-শ্যাবদন্তশ্চ মিত্রঋক্-শঠ-শৌণ্ডিকাঃ ।  
ঐন্দ্রজালিক-লুক্কোগ্রশ্রেণীগণবিরোধিনঃ ॥  
বধকশ্চক্ষুঃ পঙ্গুঃ পতিতঃ কুটকারকঃ ।

## অসাক্ষীর অপবাদ ।

এই যে চিরদাস প্রভৃতি একনবতি প্রকার ব্যক্তি সাক্ষী হইবার অযোগ্য বলিয়া নির্ণীত হইল, স্থলবিশেষে ইহাদের গ্রাহ্যতাসম্বন্ধে ভারতীয় প্রাচীন শাস্ত্রকারগণ বলিয়াছেন যে, যদি কার্যের গুরুতা বুঝা যায় অর্থাৎ চৌর্য্য, পরদারদূষণাদি ক্ষেত্রে, পরুষবাক্য বা আঘাতাদিঘটিত ফৌজদারী মামলায় ইহাদের মধ্যে কেহ যদি ঘটনা অনুভব করিয়া থাকেন তবে তাহার সাক্ষ্য প্রমাণ বলিয়া গণ্য হইবে । <sup>১</sup>

তখন গুণাগুণ বিচার করিয়া বিধিনিষেধ পালন করিবার প্রয়োজন হইবে না, নচেৎ শাসন-পালনাদি রাজকার্য্য ব্যাহত হইয়া বিশৃঙ্খলতা আসিতে পারে ।

কিন্তু ইহাদের মধ্যে গণিত বালক, স্ত্রীলোক, ধূর্দ, শত্রু, মিত্র ও একক— ইহারা কখনই সাক্ষী হইতে পারে না । <sup>২</sup>

ইহার কারণও শাস্ত্রকারগণ দেখাইয়াছেন যে, বালক অজ্ঞ, স্ত্রীলোক চপলমতি—কাহারও মতে স্বভাবতঃ মিথ্যাবাদী, ধূর্ত সর্বদা পাপাসক্ত, বান্ধব

কুহকঃ প্রত্যবসিতস্তস্বরো রাজপুরুষঃ ॥

মনুষ্য-পশুমাংসাস্থি-মধুক্ষীরাণ্ড-সর্পিধাম্ ।

বিক্রেতা ব্রাহ্মণশ্চৈব দ্বিজো বান্ধু বিকশ্চ যঃ ।

চ্যুতঃ স্বধর্মাৎ কুলিকঃ স্তাবকো হীনসেবকঃ ।

পিত্রা বিবদমানশ্চ ভেদকুচেত্যসাক্ষিণঃ ॥

নারদ-স্মৃতি ঋগাদানাদ্যায় ১৭৬-১৮৭ ।

<sup>১</sup> অসাক্ষিণো যে নির্দিষ্টা দাস-নৈকৃতিকাদয়ঃ ।

কার্য্যগৌরবমাসাচ্চ ভবেয়ুস্তেহপি সাক্ষিণঃ ॥

সাহসেষু চ সর্বেষু স্তেষ্যসংগ্রহণেষু চ ।

পারুষ্যয়োশ্চাপ্যভয়োঁ পরীক্ষেত সাক্ষিণঃ ॥

নারদ-স্মৃতি ৩অঃ ১৮৮-১৮৯ ।

<sup>২</sup> তেষামপি ন বালঃ স্ত্রী নৈকো ন কুটকৃৎ ।

ন বান্ধবো ন চার্য্যতিক্রয়ুস্তে সাক্ষ্যমত্থা ॥

নারদ-স্মৃতি ৩অঃ ১৯ ।

স্মৃত্যানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ১৩

স্বপক্ষে স্নেহবান্ এবং শত্রু সদাই বৈরনির্ঘাতনাভিলাষী, স্মৃতরাং ইহাদের কথা সত্য হইতে পারে না । ১

তবে মনুষ্যহত্যা প্রভৃতির বিচারে (ফৌজদারী মামলায়) অন্য সাক্ষী অসম্ভব হইলে স্ত্রীলোক ও বালকের সাক্ষ্য প্রশংসা হইতে পারিবে, কারণ এপ্রকার সূক্ষ্মভাবে সাক্ষী পরীক্ষা করিয়া গ্রহণ করা ঋণাদিঘটিত বিচারকার্যেই সম্ভবপর হয়, সাহসের অর্থাৎ নরহত্যা, পরস্পরীর্ষ্যাদি কার্যে অসম্ভব । ২

এক্ষেত্রেও কোন প্রাচীন ব্যবহারবিদের মত এই যে—চৌর্য্য, পরুষ-ব্যবহার ও অর্থঘটিত অভিযোগে এবং পরদারধর্ম্মাদি কার্যে শত্রু, মিত্র ও শ্যালককে কদাচ সাক্ষী করা হইবে না । ৩

যদিও অসাক্ষীর গণনায় একক ব্যক্তি বর্ণিত হইয়াছে তথাপি ঐ একক ব্যক্তি যদি উভয়ের অভিমত হন ও নিজের কোন বিষয়ে লোভ না থাকে তবে তাহার সাক্ষ্য মান্য করা যাইবে । ৪

১ বালোহজ্জানাদসত্য্যং স্ত্রী পাপাভ্যাসাচ্চ কূটকং ।

বিক্রমাদ্বাক্ষবঃ স্নেহাদ্ বৈরনির্ঘাতনাদরিঃ ॥

২

নারদ-স্মৃতি ।

৩ স্ত্রিয়াহপ্যসম্ভবে কার্য্যং বালেন স্থবিবেণ বা ।

শিষ্যেণ বন্ধুনা বাপি দাসেন ভৃত্যকেন চ ॥

মনু ৮অঃ ৭ ।

৪ পারুষ্য-শ্বেয়-সংগ্রহণেষু বৈরি-শ্মাগ-সচাস্রবর্জ্জাঃ ।

কৌটিল্য ঋণদানাদিকরণ ১১অঃ ।

৫ উভয়ানুমতো যঃ শ্রাদ্ধয়োর্কির্বদমানয়োঃ ।

অসাক্ষিকোহপি সাক্ষির্দ্বৈ প্রষ্টব্যঃ শ্মাতং স সংসদি ॥

নারদ-স্মৃতি ৩অঃ ১৯২

উভয়ানুমতঃ সাক্ষী ভবত্যেকোহপি ধর্ম্মবিৎ ॥

যাজ্ঞবল্ক্য ।

শুচিক্রিয়ন্তু ধর্ম্মজ্ঞঃ সাক্ষী যত্রানুভূতবাক্ ।

প্রমাণমেকোহপি ভবেৎ সাহসেযু বিশেষতঃ ॥

ব্যাস-সংহিতা ।

কিন্তু ঋণ-বিষয়ক অভিযোগে কখনই একক সাক্ষীর সাক্ষ্য প্রমাণমধ্যে গণ্য হইবে না। সর্বত্র তিনজনের ন্যূন সংখ্যায় সাক্ষী নাই।<sup>১</sup>

বাদী ও প্রতিবাদী উভয়ের সম্মত নিরলোভ একজনও সাক্ষী হইতে পারিবেন বলিয়া যে বিধি বর্ণিত হইয়াছে সে বিষয়ে বক্তব্য এই যে, যদি ঐ এক ব্যক্তি শ্রোত্রিয় হন তবে কখনই তাঁহার সাক্ষ্য গ্রহণ করা হইবে না।

শ্রোত্রিয় যেখানে সাক্ষী তথায় অন্ততঃ দুইজন শ্রোত্রিয় হওয়া চাই।<sup>২</sup>

তবে রহস্তব্যবহারে দ্রষ্টা বা শ্রোতা বহু লোক থাকা অসম্ভব বিবেচনায় শ্রোত্রিয় হইলেও একজন পুরুষ বা একজন স্ত্রীলোক সাক্ষী হইতে পারিবেন।<sup>৩</sup>

আর একটি কথা—পূর্বে যে চৌর্য্যাদি অভিযোগে যে-কোন ব্যক্তির সাক্ষ্য প্রমাণরূপে গ্রাহ্য হইবে বলা হইয়াছে তাহাতে, মূল যাজ্ঞবল্ক্যবচনে “সকল” অর্থে ব্যবহৃত “সর্ব্ব”শব্দটি একনবতি প্রকার সাক্ষী ব্যক্তিদের অপবাদক বিধি হইলেও, দোষাধীন বা ভেদাধীন প্রভৃতি পঞ্চপ্রকারে যাহাদের সাক্ষ্য অপ্রমাণরূপে বলা আছে তাহাদের গ্রহণ করা হইবে না। ইহাই মীমাংসকদিগের সিদ্ধান্ত।<sup>৪</sup>

সাক্ষীর অসদভাবে চিহ্নই সাক্ষীর ন্যায় প্রমাণ।

নিম্নোক্ত ছয় প্রকার ব্যবহার-কার্য্যে (মামলায়) প্রত্যক্ষদর্শী বা সাক্ষাৎ শ্রোতা সাক্ষীর অসদ্যাব ঘটিলে চিহ্ন দেখিয়া যুক্তির অনুসরণ করতঃ দোষ অবধারণ করা হইবে। সেন্সলে চিহ্নই সাক্ষী।

<sup>১</sup> প্রাত্যয়িকাঃ শুচয়জ্ঞয়োহবরাক্ষাঃ পক্ষাভ্রমতো বা দ্বৌ, ঋণং প্রতি নত্বেবৈকঃ ॥  
কৌটিল্য ৩ অধিকরণ ৪ অধ্যায়।

<sup>২</sup> উভৌ তু শ্রোত্রিয়ৌ গ্রাহ্যৌ নৈকং পৃচ্ছেৎ বদাচন।

বৃহস্পতি।

<sup>৩</sup> রহস্তব্যবহারে একা স্ত্রী পুরুষো বা উপশ্রোতা উপদ্রষ্টা বা সাক্ষী স্মৃতাঃ।

কৌটিল্য ৩ অধিকরণ ১১অঃ।

<sup>৪</sup> সর্কঃ সাক্ষী সংগ্রহণে চৌর্য্যে পারুষ্যসাহসে—।

যাজ্ঞবল্ক্য ব্যবহারাদ্যায়।

১। যেমন এক বাড়ীতে আগুন লাগিল, এমন সময়ে তথায় অগ্নি-সংযোগ করিবার ব্যক্তির অবধারণের সাক্ষী কেহ নাই, তথায় যাহাকে মশাল হাতে দেখা গেল তাহাকেই অগ্নিদাতা বলিয়া স্থির করা হইবে। মশালধারণই চিহ্ন।

২। একটী লোক আহত হইয়া মরিল, কে আঘাত করিয়াছে তাহার সাক্ষী কেহ নাই, এ ক্ষেত্রে তথায় যাহাকে অস্ত্রধারী দেখা যাইবে তাহাকেই ঘাতক বলিয়া স্থির করা যাইবে।

৩। দুইজন লোক চুলোচুলি করিতেছে দেখা গেল, ইহা প্রমাণ হইবে যে, উহার উভয়ে ক্রমিক পরস্পরিধ্বংসকারী।

৪। একটী সেতু ভাঙ্গিয়া পড়ার সঙ্গে সঙ্গেই তথায় যাহাকে কুদাল-হস্তে দেখা যাইবে সেই সেতু ভাঙ্গিয়াছে, স্তত্রাং দোষী বলিয়া গৃহীত হইবে।

৫। বন কাটা হইয়াছে, কে কাটিল তাহার অণু প্রমাণ না থাকিলে, তথায় কুঠারহস্তে যাহাকে দেখা যাইবে সেই দোষী।

৬। কোন ব্যক্তির দেহে আঘাত-চিহ্ন দেখিতে পাইলে, আঘাতের প্রত্যক্ষদর্শীর অসম্ভাবে যাহাকে আহত ব্যক্তির সঙ্গে নিষ্ঠুর ভাষণ করিতে দেখা যাইবে সেই ব্যক্তিকেই আঘাতকারী দোষী বুঝিতে হইবে। ১

এই যে ছয়টি প্রত্যক্ষ-চিহ্ন দেখিয়া অপরাধী অবধারণ করিবার কথা বলা হইল, ইহার মধ্যে শেষোক্ত পরুষভাষণরূপ চিহ্ন দেখিয়া আঘাতকারীর অবধারণসম্বন্ধে একটু নিপুণভাবে অনুসন্ধান আবশ্যক। কারণ, কেহ নিজে নিজদেহে আঘাত-চিহ্ন করিয়া “এই ব্যক্তি মারিয়া গেল”

অসাক্ষিপ্রত্যয়া হেতে ষড়্বাদাঃ প্রকীৰ্ত্তিতাঃ।

লক্ষুণাগ্ৰেব সাক্ষিভ্যে তেযামাহমনীষিণঃ ॥

উদ্ধাহস্তোহগ্নিদো জ্ঞেয়ঃ শস্ত্রপাণিধ্বনাপহঃ।

কেশাকেশিগৃহীতশ্চ যুগপৎ-পারদারিকঃ ॥

কুদালপাণিবিজ্ঞেয়ঃ সেতুভেত্তা সমীপগঃ।

তথা কুঠারপাণিশ্চ বনচ্ছেত্তা প্রকীৰ্ত্তিতাঃ ॥

প্রত্যক্ষচিহ্নো বিজ্ঞেয়ঃ দণ্ডশাস্ত্রাক্ষরঃ ॥



বলিয়া অপরের দিকে ধাবিত হইতে পারে, ইহা অসম্ভব নহে। সুতরাং পরুষভাষণের প্রতিবন্ধ্যতা তাৎপর্যের সূক্ষ্ম অনুসন্ধান আবশ্যিক, এবং চিহ্ন না থাকিলেও পরস্পরের তীব্র বাক্যে কলহের কারণ ও উভয়ের বলাবল পর্যালোচনা করিতে পারিলেও চিহ্নহীন আঘাতের অবধারণ করা যাইতে পারে। ১

চিহ্নের সাক্ষ্যবিষয়ে শাস্ত্রকারেরা ক্ষেত্রবিশেষে বলিয়াছেন—যদি চুরি হইয়া থাকে তবে পদচিহ্নের অনুসরণে স্থির করিতে হইবে ঐ চিহ্ন কোন্ গ্রামে গিয়াছে বা কোন্ গ্রাম হইতে আসিয়াছে, কোথায় যাইয়া নিবৃত্ত হইল ; যদি কোন দ্রব্য অস্বামিক দেখা যায় তাহার সূক্ষ্ম পরীক্ষায়, এবং যদি গরু চুরী হইয়া থাকে তবে গোর পদচিহ্ন পরীক্ষায় চোরের সন্ধান হইবে। সুতরাং এই সকল স্তেয়ক্ষেত্রে চিহ্নই সাক্ষী। কিন্তু যদি চোরের অবধারণ অনিশ্চিত হয়, তথায় রাজা চোরগ্রহণে নিযুক্ত কস্মচারাদিগের নিকট হইতে ঐ ধন দেওয়াইবেন এবং স্থলবিশেষে গ্রামাধ্যক্ষ প্রভৃতির নিকট হইতেও এইরূপ দেওয়াইতে পারিবেন। ২

### সাক্ষী-পরীক্ষা বা কূটসাক্ষী-নিরূপণ।

বিচারালয়ে অভিযোগ আসিলে বিচারকর্তা প্রথমেই অনুমান দ্বারা সত্য নির্ণয়ে যত্ন করিবেন। অভিযোক্তাদের সত্যবাদিতা প্রভৃতি বুঝিবার যে

- ১ অসাক্ষিপ্ৰত্যায়া হেতে পারুঘো তু পরীক্ষণম্ ।  
কশ্চিৎ কৃষ্ণান্নশ্চিহ্নং দেষাৎ পরমুপত্রজ্ঞেং ॥  
হেতুর্থগতি-সামর্থ্যোন্তত্র যুক্তং পরীক্ষণম্ । নারদ-স্মৃতি ৩ অঃ ১৭৬ ।

### ২ কাত্যায়ন বলিয়াছেন—

গৃহে তু মুষিতং রাজা চোরগ্রাহাংস্ত দাপয়েৎ ।  
অবক্ষকাংশ্চ দিকপালান্ যদি চোরো ন লভ্যতে ॥  
নির্গতে তু পদে তস্মান্ন চেনত্তত্র পাতিতম্ ।  
সামন্তান্ মার্গপালাংশ্চ দিকপালাংশ্চ দাপয়েৎ ॥

নারদ—গোচরে যন্ত মুখ্যত তেন চোরঃ প্রযত্নতঃ ।

গ্রাহো দাপ্যোহথ বা মোষণং পদং যদি ন নির্গতম্ ॥

অনুমান প্রকার উল্লিখিত আছে, সাক্ষীর সম্বন্ধেও বিচারক সেই অনুমান-বলেই সত্যাসত্য বুঝিবার চেষ্টা করিবেন। ইহাই প্রাচীন ভারতের পরীক্ষার উপায় ছিল। বর্তমান ভারতীয় বৃটীশ আইনে ৩৬৩ নং ফৌজদারী বিধিতেও ইহা বেশ বলা আছে যে যদি সাক্ষীর অবিশ্বাস্ততার চিহ্ন দেখা যায় তবে বিচারক নিজের বিশ্বাসানুসারে প্রমাণরূপে গ্রাহ্য বা অগ্রাহ্য করিতে পারেন।

স্বর, বর্ণ, আকার, ইঙ্গিত, চক্ষু ও চেষ্টা—এই ছয় প্রকার বাহিরের চিহ্ন দেখিয়া মানুষের অন্তরের ভাব বুঝা স্বাভাবিক। অর্থাৎ গদগদ স্বর, হঠাৎ অস্বাভাবিক বর্ণ, অস্বাভাবিক ইঙ্গিত অর্থাৎ মনোভাবের অনুরূপ চেষ্টার আবিস্কার, ঘর্ষ, কম্প, রোমাঞ্চ, আকার-বিকৃতি, চক্ষুর কাতরভাব, এবং স্থানত্যাগ অর্থাৎ একত্র অনবস্থান।<sup>১</sup>

এই সকল চিহ্ন নিপুণভাবে পর্যবেক্ষণ করিলে সাক্ষীর সত্যবাদিতা কি মিথ্যাবাদিতা তাহা নির্ণীত হইতে পারিবে।

কেহ সাক্ষ্য দিতে আসিয়া জিহ্বাদ্বারা ওষ্ঠপ্রান্ত অবলেহন করে কিংবা তাহার কপালে ঘর্ষ হয়, মুখ বিবর্ণ হয়, কিংবা তাহার কথা সকল নীরস, অসংলগ্ন শু মধ্য মধ্য স্থলিত হইতে থাকে ;<sup>২</sup> কেহ বা জিহ্বাসিত হইয়াও উত্তর দিতেছে না, পরের চোখের দিকে তাকাইতে পারিতেছে

<sup>১</sup> বাহ্যৈর্বিভাবয়েল্লিঙ্গৈর্ভাবমন্তর্গতং নৃণাম্।

স্বরবর্ণেঙ্গিতাকারৈশ্চক্ষুর্চেষ্টাভেদৈঃ চ ॥

মল্লঃ ৮অঃ।

যত্বাদ্দোষভিন্নত্বাদিস্বস্থ ইব লক্ষ্যতে।

স্থানাং স্থানান্তরং যাতি তৈকৈকমনুধাবতি ॥

নারদ-স্মৃতিঃ ৩অঃ ১৯৩।

<sup>২</sup> ভ্রমমাণ ইবাকস্মাদপৃষ্ঠো বহ্যভাষতে।

কূটসাক্ষী স বিজ্ঞেয়ঃ তং পাপং বিনিবর্তয়েৎ ॥

নারদ-স্মৃতিঃ ৩অঃ ১৯৬।

না, ঠোট বাঁকাইতেছে কিংবা হঠাৎ ত্বরান্বিত মত হইতেছে বা জিজ্ঞাসিত না হইয়াও অনেক কথা বলিতেছে। এ সকল চিহ্ন প্রায়ই তাহাদের দেখা যায়; অর্থাৎ যাহাদের মনে মিথ্যা আশ্রয় করিয়াছে তাহাদের এক্রপ লক্ষণ প্রায়ই ঘটিয়া থাকে।

মিথ্যাবাদী মাত্রেই সাক্ষ্য দিবার সময় এই সকল চিহ্ন যে ঘটিবে তাহারও কোন স্থিরতা নাই, নাও ঘটিতে পারে। তথাপি বিচারক অনুসন্ধান করিবেন যদি এই সকলের কোন একটা চিহ্ন দেখিতে পান তবে তাহার দুর্ঘট অভিসন্ধি বুঝিতে হইবে। দুর্ঘট বুঝিতে পারিলেও বিচারক তাহাকে প্রথমেই সাক্ষ্যদানকার্য হইতে অব্যাহতি দিবেন না। কারণ মিথ্যা বুঝিলেও তাহার বাক্যের সত্যাসত্য পর্যবেক্ষণ করাও আবশ্যক। স্মৃতরাং বিচারক সূক্ষ্মভাবে প্রণিধান করিয়া তাহার বাক্যের সদসন্দ্বাধ বুঝিবার জন্য প্রস্তুত হইবেন।

আকার গোপন করিবার চেষ্টা করিলেও আকার গোপন করা যায় না। আকারই মানুষের ভিতরের ভাব জোর করিয়া বাহিরে আনিয়া দেয়।

এই কথা রামায়ণের ঋষিও বলিয়া গিয়াছেন।

বিলিখ্যতাবনীং পদ্ম্যাং বাহু বাসশ্চ ধুনঃ ॥  
ক্রামত্যানিভূতোহকস্মাদভীক্ষং নিঃশ্বসত্যপি ॥  
স কূটসাক্ষী বিজ্ঞেয়ন্তং পাপং বিনয়েন্নৃপঃ ॥

নারদ-স্মৃতিঃ ।

দেশাদেশান্তরং যাতি স্কন্ধীং পরিলোচি চ ।  
ললাটং শিখ্রতে চাহস্ত মুখং বৈবর্ণ্যমেতি চ ॥  
পরিশ্রুতং স্বাক্ষ্যাক্যো বিরুদ্ধং বহু ভাষতে ।  
বাক্ চক্ষুঃ পূজয়তি নো নচোষ্টৌ নিভূজত্যপি ॥  
অভিযোগে চ সাক্ষ্যে চ স দুষ্টঃ পরিকীর্তিতঃ ॥

যাজ্ঞবল্ক্যঃ, ব্যবহারাদ্যায়ঃ ১৩ ।

## সাক্ষীর প্রতি বিচারকের প্রথম ব্যবহার

বর্তমান কালে আমাদের বৃটিশ সম্রাটের ভারতীয় সাধারণ বিচারকার্যে প্রথমেই যেমন সাক্ষীকে শপথ করাইবার নিয়ম প্রবর্তিত আছে, প্রাচীন ভারতের ব্যবহারকার্যে হিন্দু রাজাদের সময়ে সেরূপ প্রথা ছিল না।

তাহাদের বিচারকার্য পূর্ববাহ্যেই হইত। বিচারক পূর্ববাহ্যে সাক্ষীদের আহ্বান করিয়া সভাস্থলে সম্ভবমত দেবতা বা ব্রাহ্মণের সম্মুখে উপস্থাপিত করিতেন<sup>১</sup> এবং প্রিয় ও মধুর বাক্যে সাক্ষীদিগকে সান্ত্বনা করিতেন। এবং সত্য-কথনরূপ ধর্মের বেদ ও পুরাণসম্মত মহিমা-কীর্তন ও মিথ্যা কথনের দারুণ দোষ দেখাইয়া ভীত করিয়া জিজ্ঞাসা করিতেন—

“তোমরা এই বাদী ও প্রতিবাদীর অভিযোগ-বিষয়ে যাহা জান তাহা সত্য বল, যেহেতু এই বিবাদে তোমাদিগকে সাক্ষী করা হইয়াছে”—এই কথা বলার পরই বিচারক সাক্ষীকে সত্যের মহিমা ও মিথ্যার অনর্থ এইরূপে শুনাইবেন ; যথা—

দেখ সাক্ষ্যস্থলে সাক্ষী সত্য কথা বলিয়া পরকালে উৎকৃষ্ট লোক প্রাপ্ত হন এবং ইহকালে যশস্বী হন। ব্রাহ্মাও সত্যবাক্যের পূজা করেন।<sup>২</sup> সাক্ষ্যস্থলে মিথ্যা বলিলে বরুণপাশে বদ্ধ হইয়া অন্তিমকালে অবশভাবেই শত-যাতনাময় নরকে পতিত হইতে হয়। অতএব সাক্ষ্যস্থলে সত্য বলিবে। সত্য সাক্ষ্যের প্রভাবে সাক্ষী পবিত্র হয় এবং তাহার ধর্ম বৃদ্ধি হয়।

সকলেরই সাক্ষ্য সত্য বলা উচিত। যদি তুমি সাক্ষ্যে মিথ্যা বল তবে তুমি যেদিন জন্মিয়াছ ও যেদিন মরিবে ইহার মধ্যকালে যাহা কিছু পুণ্য করিয়া থাকিবে তৎসমুদয়ই বিফল হইবে।

জীবদেহের মধ্যবর্তী পরম পুরুষই পাপপুণ্যের সাক্ষী আছেন, মিথ্যা সাক্ষ্য দিয়া সেই সর্বোত্তম নিত্য সাক্ষীর অবমাননা করিও না।

১ দেব-ব্রাহ্মণ-সান্নিধ্যে সাক্ষ্যং পৃচ্ছেদুতং দ্বিজান্।

উদঙ্মুখান্ প্রাঙ্মুখান্ বা পূর্বাহ্নে বৈ শুচিঃ শুচীন ॥ মনুঃ ৮অঃ ৮৭।

২ সত্যং সাক্ষ্যে ক্রবন্ সাক্ষী লোকানীপ্লোতি পুঙ্কলান্।

ইহ চান্নুত্তমাং কীর্তিং বাগেযা ব্রহ্মপূজিতা ॥ মনুঃ ৮অঃ ৮১।

পাপীরা মনে করে তাহাদের পাপ কেহ দেখিতে পায় না কিন্তু ভাবে না যে, দেহস্থ পরম পুরুষ এবং আকাশ, ভূমি, জল, সূর্য্য, চন্দ্র, যম, দিন, রাত্রি, সন্ধ্যা ও অন্তরধিষ্ঠাতা আত্মা তাহাদের শুভাশুভ সমস্ত নিরীক্ষণ করিয়া থাকেন।

ইংরাজী আইনের ১৬১ ধারাতেও বিচারকই প্রশ্নকর্তারূপে নিরূপিত আছেন।

সাক্ষীকে মিথ্যাকথা বলায় নিন্দা শ্রবণ করান

হে ভদ্র ! ব্রহ্মায়, স্ত্রীঘাতী, শিশুঘাতক, মিত্রদ্রোহী ও কৃতঘ্নের যে নরক নির্দিষ্ট আছে, যে মিথ্যা সাক্ষ্য দেয় তাহাকে সেই নরকে যাইয়া যাতনা পাইতে হয়, জানিবে।

যদি তুমি সাক্ষ্যে মিথ্যা বল তবে আজন্ম যে পুণ্য করিয়াছ তাহা কুকুরে সংক্রমিত হইবে। তুমি মনে করিও না যে, তুমি একাই আছ। দয়াময় জগদীশ্বর পাপপুণ্যের প্রত্যক্ষদর্শী। তিনি সর্ববদাই তোমার অন্তরে বিরাজমান আছেন। তিনি সর্ববিনয়ন্তা এজ্ঞা তাঁহার নাম যম। সেই যমপুরুষ তোমার অন্তরে বসিয়া আছেন। তুমি সত্য বলিলে তাঁহার সহিত তোমার বিবাদ হইবে না এবং পাপক্ষালনের জন্য গঙ্গায় বা কুরুক্ষেত্রে যাইতে হইবে না। ’

সাক্ষ্যেহনৃতং বদন্ পাশৈর্বধ্যতে বাক্লগৈর্ভূশম্ ।

বিবশঃ শতমায়্যতি তস্মাৎ সাক্ষ্যং বদেদৃতম্ ॥

সত্যেন পুষ্টে সাক্ষী ধর্মঃ সত্যেন বর্দ্ধতে ।

তস্মাৎ সত্যং হি বক্তব্যং সর্ববর্ণেষু সাক্ষিভিঃ ॥

আত্মৈব হ্যাত্মনঃ সাক্ষী গতিরাত্মা তথাাত্মনঃ ।

মাহবমংস্থাঃ স্বমাত্মানং নৃণাং সাক্ষিণমুত্তমম্ ॥

মহাশ্বে বৈ শাপকৃতো ন কশ্চিৎ পশুতীতি নঃ ।

তাংস্ত দেবাঃ প্রাপশস্তি স্বশ্রৈবাস্তশ্চ পুরুষঃ ॥ মনুঃ ৮ অঃ ৮২-৮৫

জন্ম প্রভৃতি যৎ কিঞ্চিৎ পুণ্যং ভদ্র ত্বয়া কৃতম্ ।

তন্তে সর্বং শুনি গচ্ছেদ্ব যদি ক্রয়াত্মমত্যা ॥

শ্রুতানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ২১

ধর্ম-ব্যবহারে জিজ্ঞাসিত হইয়া যে ব্যক্তি মিথ্যা বলে সেই পাপিষ্ঠকে ঘোর তমোময় নরকে অধোমুখে অবস্থান করিতে হয়।

সত্য নির্ণয়ের জন্য জিজ্ঞাসিত হইয়া যে ব্যক্তি লোভের বশে মিথ্যা বলে তাহাকে অন্ধের সন্ধান মৎস্য ভোজনের ন্যায় সুখবুদ্ধিতে প্রবৃত্ত হইয়া দুঃখই পাইতে হয়।

যাহার সাক্ষ্য দিবার সময় অন্তর্গামী পুরুষ সন্দেহ করেন না দেবতারাও তাহাকে অতি শ্রেষ্ঠ বলেন।

অতএব মিথ্যা সাক্ষ্যের এই সকল দোষ দেখিয়া তুমি কদাচ মিথ্যা বলিও না। যাহা দেখিয়াছ বা শুনিয়াছ তাহাই অবিকল বল।

ঋষিবেশেষের মতে সাক্ষ্যকে শুনাইবার জন্য মনোরম কথা

হে ভদ্র ! সাগরবক্ষে নৌকার ন্যায় একমাত্র সত্যই জীবের স্বর্গপথের সোপান।

তুলাদণ্ডের একদিকে সহস্র অশ্বমেধ যজ্ঞজনিত পুণ্য রাখিয়া অপরদিকে একটীমাত্র সত্য রাখিলে সত্যটাই গুরুভার হইয়া থাকে।

একশত কৃপ অপেক্ষা একটা বাপী, একশত বাপী অপেক্ষা একটা যজ্ঞ, একশত যজ্ঞ অপেক্ষা একটা পুত্র এবং একশত পুত্র অপেক্ষা একটা সত্য অধিক আদরের ও প্রশংসার ভাজন হয়। পৃথিবী সত্যপাশে বাঁধা থাকাতাই সংসারকে ধারণ করিয়া ভূতধাত্রী নাম পাইয়াছেন।

সত্যের প্রভাবেই সূর্য্যের উদয় হয়। সত্যের প্রভাবেই বায়ু সর্বত্র বিচরণ করিয়া “সদাগতি” নাম পাইয়াছেন। সত্যই পরম দান। সত্যই পরম ধর্ম। সত্যই পরম তপস্বী। সংক্ষেপে বলিতে হইলে সত্যই সমস্ত দেবতা। যাহার বুদ্ধি সত্যে অচলা তাহারই দেবভাব স্পষ্ট।

অতএব মিথ্যাভ্যাগ করিয়া সত্য কথা বল। মিথ্যা বলিলে ঘোর নরকে পতিত হইবে।

মিথ্যার এই দারুণ দোষ এবং সত্যের উৎকৃষ্ট গুণ দেখিয়া সত্য কথা বলিতে যত্ন কর। তাহাতে নিজে উদ্ধার পাইবে। বিপরীতাচরণ করিয়া আপনাকে নরকে ফেলিও না।

যে নরাধম পরের জন্য নিজের বাক্য বিপরীত করিয়া বলে সেই পাপিষ্ঠ নারকীর অসাধ্য কিছু নাই। যে ব্যক্তি নিজের বাক্যের সত্য অংশ অপলাপ করে সেই প্রধান চোর। তাহার পক্ষে কোন চৌর্য্যই অসাধ্য নহে।

### মাগ্গীকে শুনাইবার কথার মূল প্রমাণ

একোহমস্মীত্যাত্মানং যত্ত্বং কল্যাণ মনুসে ।  
 নিতাং স্থিতস্তে হৃদেষ পুণ্যপাপেক্ষিতা মুনিঃ ॥  
 যমো বৈবস্বতো দেবো যন্তুবৈষ হৃদি স্থিতঃ ।  
 তেন চেদবিবাদস্তে মা গগ্নাং মা কুরুন্ গমঃ ॥  
 অণাক্ষিরান্তমস্তন্ধে কিম্বিধী নরকং ব্রজেৎ ।  
 যঃ প্রশং বিতথং ক্রয়াং পৃষ্ঠঃ সন্ ধৰ্ম্মনিশ্চয়ে ॥  
 অন্ধো মন্ত্ৰানিবাশ্ৰাতি স নরঃ কণ্টকৈঃ সহ ।  
 যো ভাষতেহৈষ বৈকল্যাং প্রত্যক্ষং বা সভাং গতঃ ॥  
 যন্ত বিদ্বান্ হি বদতঃ ক্ষেত্রজ্ঞো নাভিশঙ্কতে ।  
 তস্মান্ন দেবাঃ শ্রেয়াংসং লোকেহুত্বং পুরুষং বিহুঃ ॥  
 এতান্ দোষানবেক্ষ্য ত্বং সৰ্ব্বাননৃতভাষণে ।  
 যথাশ্রুতং যথাদৃষ্টং সৰ্ব্বমেবাঙ্গসা বদ ॥  
 ব্রহ্ময়ো যে স্মৃতা লোকা যে চ জীব্যলঘাভিনঃ ।  
 মিত্রদ্রহঃ কৃতঘ্নস্ত তে তে স্যাক্রবতো মৃষা ॥

মন্ত্ৰঃ ৮ অধ্যায়ঃ ।

একমেবাদ্বিতীয়ং তৎ প্রাহুঃ পাবনমাত্মনঃ ।  
 সত্যং স্বৰ্গস্ত সোপানং পারাবারস্ত নৌদিব ॥  
 অশ্বমেধসহস্রঞ্চ সত্যঞ্চ তুলয়া ধৃতম্ ।  
 অশ্বমেধসহস্রাঙ্কি সত্যমেবাতিরিচ্যতে ॥  
 বরং কুপশতাঙ্গাপী বরং বাপীশতাং ক্রতুঃ ।  
 বরং ক্রতুশতাং পুত্রঃ সত্যং পুত্রশতাধ্বরম্ ॥  
 ভূর্ধারয়তি সত্যেন সত্যেনোদেতি ভাস্করঃ ।  
 সত্যেন বায়ুঃ অবতে সত্যেনাপঃ অবস্তি চ ॥

সত্যমেব পরং দানং সত্যমেব পরং তপঃ ।

সত্যমেব পরো ধর্মো লোকানামিতি নঃ শ্রুতম্ ॥

সত্যং দেবাঃ সমাসেন মনুষ্যানুতং স্মৃতম্ ।

ইহৈব তস্মৈ দেবত্বং যন্ত সত্যে হিতা মতিঃ ॥

সত্যং ক্রহনুতং ত্যক্তা সত্যেন স্বর্গমেচ্ছসি ।

উক্তানুতং মহাঘোরং নরকং প্রতিপদ্যসে ॥

জ্ঞাত্বৈতাননুতে দোষান্ জ্ঞাত্বা সত্যে চ সদৃশান্ ।

সত্যং বদোক্তবান্নানং নান্নানং পাতয় স্বয়ম্ ॥

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যঃ পরার্থে প্রহিণুয়াৎ স্বাং বাচং পুরুষাধমঃ ।

আত্মার্থে কিং ন কুর্যাৎ স পাপো নরকনির্ভয়ঃ ॥

যো হিতাং স্তেনয়েদ্বাচং স সর্কস্তেনকুম্বরঃ ॥

নারদ-স্মৃতি: ৪থাধ্যায়:

যাং রাত্রিমজনিষ্ঠান্তং যাক্ষ রাত্রিং মরিস্মৃসি ।

এতয়োরন্তরা যন্তে স্বকৃতং স্মৃকৃতং ভবেৎ ।

তৎসর্বং রাজগামি শ্রাদ্ধানুতং ক্রবতন্তব ॥

বোধায়ন-স্মৃতি: ১০মাধ্যায়:

### সাক্ষিপ্রশ্নে ব্রাহ্মণাদি ভেদে বিশেষ নিয়ম

বিচারক এই সকল শুনাইবার পর জানিবেন যে সাক্ষী কোন বর্ণ ও তাহার কি বৃত্তি । যদি সাক্ষী ব্রাহ্মণ হন তবে তাহাকে “বল” ( কাহারও মতে “তোমার কথা . বিতথ হইলে সত্য নষ্ট হইবে”) এই কথা বলিয়া জিজ্ঞাসা করিতে থাকিবেন ।

সাক্ষী ক্ষত্রিয় হইলে “সত্য বলিবে নচেৎ তোমার অশ্বাদি বাহন ও অস্ত্র সকল বিফল হইবে ।”

সাক্ষী বৈশ্য হইলে “সত্য বল অন্যথা তোমার গো এবং খাত্তাদির বীজ ও সুবর্ণাদি পণ্য বিফল হইবে ।”



সাক্ষী শূদ্র হইলে “তুমি যদি মিথ্যা বল তবে সংসারে যত প্রকার পাপ আছে তাহা তোমার হইবে” ১ এই বলিয়া প্রশ্ন আরম্ভ করিবেন।

তবে যে ব্রাহ্মণ বেতনভুক্ হইয়া অশ্বের গোচারণ করে অথবা বাণিজ্য-জীবী, পাচকতা বা নৃত্যগীতাদি-দ্বারা জীবিকানির্ব্বাহ করে কিংবা দাসবৃত্তি বা কুসীদজীবী অর্থাৎ সুদখোর হয়, সেরূপ ব্রাহ্মণ-সাক্ষীকে বিচারক শূদ্র-সাক্ষীর ন্যায়ই প্রশ্ন করিবেন। ২

ইংরাজী Evidence Act-এর ৬০ ধারাতেও এইরূপ প্রাচীন ভারতের ন্যায় বিচারকই প্রশ্নকর্তারূপে নির্দ্ধারিত আছেন।

### সাক্ষীর স্বাভাবিক কথাই শ্রোতব্য

সাক্ষী স্বাভাবিক যে কথা বলিবে তাহাই বিচারক প্রমাণরূপে গ্রহণ করিবেন। ৩ সাক্ষীকে বারংবার একটী বিষয়েই ঘোরফের করিয়া জিজ্ঞাসা করা হইবে না। যদি সাক্ষীর মুখে জেরায় অস্বাভাবিক কথাও পাওয়া যায়

- ১ সত্যেন শাপয়েদ্বিপ্রং ক্ষত্রিয়ং বাহনায়ুধৈঃ ।  
গো-বীজ-কাঞ্চনৈর্বৈশ্বং শূদ্রং সর্কৈস্ত পাতকৈঃ ॥

মন্ত্ৰঃ ৮মাধ্যায়ঃ ১১৩

- ২ গোরক্ষকান্ বাণিজিকাংস্তথা কারু-কুশীলুবান্ ।  
প্রেষ্যান্ বান্ধু ষিকাংশৈচ বিপ্রান্ শূদ্রবদাচরেং ॥

মন্ত্ৰঃ ৮মাধ্যায়ঃ ১০২ ।

- ৩ স্বভাবেনৈব যদ্রক্যুস্তদ্ গ্রাহং ব্যবহাবিকম্ ।  
অতো যদত্ৰদ্বিক্রয়ুর্ধর্ম্মার্থং তদপার্থকম্ ॥

মন্ত্ৰঃ ৮অঃ ৭৮ ।

স্মৃত্যমুদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ২৫

তাহা সত্য হইলেও বিচারক বিচারকার্যের সাহায্যে তাহা গ্রহণ করিবেন না ইহাই প্রাচীন ভারতের ব্যবহারিক শাস্ত্রকারদিগের অভিমত । <sup>১</sup>

বর্তমান Evidence Act এর ১৩৩ ধারায় ইংরাজ আইনজেরা জেরা করিবার উপদেশ দিয়াছেন। এ বিষয়ে স্থূলভাবে একরূপ নিবেচনা করা যাইতে পারে যে তখনকার কালে প্রথমতঃ অর্থি-প্রত্যর্থী উভয়েরই প্রতিভূস্থানীয় হইয়া বিচারকই প্রশ্ন করিতেন। সেই প্রশ্নধারা হইতেই সত্য-নির্ণয় হইয়া যাইত; এবং প্রাচীন ভারতে সাক্ষ্য অপেক্ষা সাক্ষিগত ব্যক্তিত্বের আদর থাকায় সেই ব্যক্তিগত বিশ্বাসের ভিত্তি ধরিয়া জেরা করা নিম্প্রয়োজন ছিল। ইংরাজী আইনে শপথ বা দিব্য প্রমাণ অগ্রাহ্য, স্মৃতাং তাহার স্থান জেরা আসিয়া অধিকার করিয়াছে ইহাও বলা সম্ভবপর হয়। <sup>২</sup>

### ঘটনা জানিয়া সাক্ষ্য-প্রদানে অস্বীকারে দোষ

যে ব্যক্তি বাদীর উপস্থাপিত ঘটনা দেখিয়াছে বা শুনিয়াছে, সে যদি সাক্ষ্য দিতে অস্বীকার করে, তবে তাহার মিথ্যা সাক্ষ্যের পাপ হইবে, এবং রাজা তাহার প্রতি কূট সাক্ষীর পক্ষে বিহিত দণ্ডই বিধান করিবেন। <sup>৩</sup>

যে ঘটনাভিজ্ঞ ব্যক্তি পার্শ্বব বা দৈবিক উপদ্রবে উপদ্রুত হয় নাই, অথচ যদি সে ব্যক্তি ঋণাদিঘটিত মামলায় মানিত হইয়া স্বেচ্ছায় থাকিয়াও ৪৫ দিনের মধ্যেও ধর্ম্মাধিকরণে আসিয়া সাক্ষ্য না দেয়, রাজা তাহার নিকট

<sup>১</sup> স্বভাবোক্তং বচনেষাং গ্রাহ্যং যদোষবর্জিতম্।

অথবা সাক্ষিণো রাজা ন প্রষ্টব্যঃ পুনঃ পুনঃ ॥

কাত্যায়ন-স্মৃতিঃ

( বিজ্ঞানেশ্বর-ধৃতা । )

<sup>২</sup> সাক্ষিণো ন প্রষ্টব্যঃ পুনঃ পুনঃ । বিষ্ণু-স্মৃতিঃ ।

<sup>৩</sup> ন দদাতি হি যঃ সাক্ষ্যং জানন্নপি নরাধমঃ ।

স কূটসাক্ষিণং পাপৈস্তল্যো দণ্ডেন চৈব হি ॥

মমুঃ ১৯ অঃ ১০৯ ।

হইতে সেই উপস্থাপিত ঋণ আদায় করিয়া উত্তমর্ণকে দিবেন এবং দশমাংশ অধিক দণ্ডরূপে গ্রহণ করিবেন ।<sup>১</sup>

যদি কেহ সাক্ষ্য দিতে স্মৃকৃত হইয়া পরে অস্বীকার করে তাহা হইলে সেও কূটসাক্ষ্যের পাপে লিপ্ত হয় । রাজা তাহাকে সেই বিবাদে উপস্থাপিত বিষয়ে পরাজিতব্যক্তিকে যে দণ্ড দিবেন ইহাকে তদপেক্ষা আট গুণ অধিক দণ্ড দিয়া রাজ্য হইতে বহিস্কৃত করিয়া দিবেন । ইহাই প্রাচীন আইনের অভিপ্রায় । বর্তমান ইংরাজী আইনের (Evidence Act) : ৩২, ১৪৭ ও ১৪৮ ধারায় এবং Penal Code এর ১৭৯ ধারাতেও এই প্রকার বিধান থাকায় প্রাচীন ভারতীয় আইনের সঙ্গে বর্তমান ইংরাজী আইনের আংশিক সামঞ্জস্য উপলব্ধি হয় ।

ব্রাহ্মণ যদি একরূপ পাপে লিপ্ত হন তাহা হইলে রাজা তাহাকে রাজ্য হইতে নির্বাসন-দণ্ড দিবেন । কাহারও মতে একরূপ ক্ষেত্রে রাজা ব্রাহ্মণের সর্বস্ব হরণ করিবেন ।<sup>২</sup>

যদি ব্রাহ্মণের অন্তর্গতের একরূপ পাপ ঘটে, অথচ তাহার বিহিত দণ্ড দিবার সামর্থ্য না থাকে তাহা হইলে রাজা তাহাকে স্বজাতির উপযুক্ত দাসত্বাদি কর্ম্মে নিয়োজিত করাইবেন; তাহাতেও অনুপযুক্ত হইলে তাহাকে কারাগারে অবরুদ্ধ করিয়া রাখিবেন ।<sup>৩</sup>

যেখানে পিতাপুত্রের বাকপারশ্ব প্রভৃতি সামান্য সাহসকার্য্য ঘটিয়াছে এবং ঐ বিষয়ে ধর্ম্মাধিকরণে অভিযোগ উপস্থাপিত হইয়াছে,<sup>৪</sup> সে ক্ষেত্রে যদি

১ ত্রিপক্ষাদক্রবন্ সাক্ষ্যমুণাদিষু নরোংগদঃ ।

তদুণং প্রাপ্নুয়াৎ সর্কং দশবক্রঞ্চ সর্কশঃ ॥

মন্তুঃ ৮ অঃ ।

২ কোটসাক্ষ্যন্তু কুর্য্যাণান্ জীন্ বর্ণান্ ধার্ম্মিকো নৃপঃ ।

প্রবাসয়েদ্ধণ্ডয়িত্বা ব্রাহ্মণন্ত বিবাসয়েৎ ॥

মন্তুঃ ৮ অঃ ১২৩ ।

৩ মিতাক্ষরা—কূটসাক্ষি-প্রকরণম্ ।

৪ পিতাপুত্রবিবোধে তু সাক্ষিণাং দশমো পণঃ ।

মন্তুঃ ৮ অঃ ।

স্বত্বানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ২৭  
কেহ প্রত্যক্ষদর্শী বা সাক্ষ্যে শ্রোতা হন তাহা হইলেও তিনি সাক্ষ্য দিবেন  
না ; যদি সাক্ষ্য দেন তাহা হইলে রাজা তাঁহাকে দণ্ড দিবেন ।

### মিথ্যাসাক্ষ্য ও তাহার শাসন

যে ব্যক্তি সাক্ষ্যে মিথ্যা বলে তাহাকে কূটসাক্ষী বলিয়া নির্দেশ  
করা হয় ।\*

লোভ, মোহ, কাম, ক্রোধ, স্নেহ, ভয়, বন্ধুতা ও অজ্ঞতাবশতঃ যে  
সাক্ষ্য প্রদত্ত হয় তাহা প্রায়ই মিথ্যা হইয়া থাকে ।

যে ব্যক্তি লোভ, ভয় বা স্নেহের বশবর্তী হইয়া একবারমাত্র মিথ্যা  
সাক্ষ্য দেয় রাজা তাহার উত্তম দণ্ড অর্থাৎ সহস্রপণ কষাপণ (কড়ি) দণ্ড  
করিবেন ।

ইচ্ছাক্রমে কৌটসাক্ষ্য দিলে ২৫০০ আড়াই হাজার পণ এবং ক্রোধের  
বশবর্তী হইয়া মিথ্যাসাক্ষ্য দিলে তিন হাজার পণ আর অজ্ঞতাবশতঃ  
হইলে ২০০ দুইশত পণ ও অনবধানবশতঃ হইলে ১০০ একশত পণ কাকিনী  
( কড়ি ) দণ্ড-বিধান আছে ।\*

যদি বিচারক এ ক্ষেত্রে সাক্ষীর কূটসাক্ষ্য দিবার বিশেষ কারণ জানিতে  
না পারেন তবে বিচারের জন্ত উপস্থাপিত সেই মামলায় পরাজিতের যে দণ্ড  
বিধান করিবেন ঐ কূটসাক্ষ্যদাতাকেও একবার মাত্র কূটকারী বুঝিলেও সেই  
দণ্ডের দ্বিগুণ দণ্ড দিবেন । ব্রাহ্মণ একরূপ অপরাধ করিলে ধনদণ্ড না করিয়া

১ লোভাৎ সহস্রং দণ্ডস্ত মোহাৎ পূর্ব্বং সাহসম্ ।

ভয়াৎ মধ্যমে দণ্ডো মৈত্র্যাৎ পূর্ব্বং চতুর্গুণম্ ॥

কামাদশগুণং পূর্ব্বং ক্রোধাত্তু দ্বিগুণং পরম্ ।

অজ্ঞানাদ্ দ্বৈ শতে পূর্ণে বালিশ্চাচ্ছতমেব চ ॥

পৃথক্ পৃথক্ দণ্ডনীয়াঃ কূটরূপসাক্ষিগন্তথা ।

বিবাদাদ্বিগুণং দণ্ডং বিবাস্তো ব্রাহ্মণঃ স্মৃতঃ ॥

তাহাকে নির্বাসন-দণ্ড দিবেন। বর্তমান ইংরাজী আইনের ১৯১ ও ১৯৩ ধারাতে মিথ্যাসাক্ষ্যের দণ্ড দিবার ব্যবস্থার সহিত প্রাচীন ভারতের এই শাসনের বেশ সামঞ্জস্য লক্ষিত হয়।

### বারংবার মিথ্যাসাক্ষ্য-প্রদানের দণ্ড

১ পূর্বোক্ত কারণে যে ব্যক্তি বারংবার মিথ্যাসাক্ষ্য দিবে সেই কূটসাক্ষী যদি ব্রাহ্মণ হয় তাহা হইলে রাজা তাহার সর্বস্ব কাড়িয়া লইয়া নিষ্পন্ন করিয়া দিবেন এবং ব্রাহ্মণের হইলে তাহাকে পূর্বোক্ত দণ্ডে দণ্ডিত করিয়া রাজ্য হইতে বহিস্কৃত করিয়া দিবেন। ২ ব্রাহ্মণকেও নিষ্পন্ন করা বা বহিস্কৃত করিয়া দেওয়া দুইটির একটী করিতে পারেন।

এখানে যাজ্ঞবল্ক্যের মূলবচনে “প্রবাসিত করিয়া দিবে” ৩ এই বাক্যটিকে অশ্রু বাক্যের সঙ্গে একবাক্যতা করিয়া টীকাকার বিজ্ঞানেশ্বর এইরূপ অভিপ্রায় লিখিয়াছেন যে প্র-উপসর্গ যোগে বসম্বন্ধে বধার্থে প্রযুক্ত হয়। অতএব ব্রাহ্মণের বর্ণের ওষ্ঠ ছেদন, জিহ্বা উৎপাটন প্রভৃতি অঙ্গ-চ্ছেদাদিরূপ সাক্ষ্যে বধসাধন কার্য্যই করা হইবে। ৪ আর ব্রাহ্মণের পক্ষে দৈহিক দণ্ড না থাকায় বিবাসন অর্থাৎ রাজ্য হইতে বহিস্কৃত করিয়া দেওয়া হইবে।

১ কোটসাক্ষ্যন্তু কুর্ক্সাণান্ ত্রীন্ বর্ণান্ ধার্মিকো নৃপঃ।

প্রবাসয়েদগুয়িত্বা ব্রাহ্মণন্তু বিবাসয়েৎ ॥

মন্ত্রঃ ৮ অঃ ১২৩।

২ ন জাতু ব্রাহ্মণং হত্যাং সর্বপাপেষুবস্থিতম্।

রাষ্ট্রাদেনং বহিষ্কৃত্যং সমগ্রধনমক্ষতম্ ॥

মন্ত্রঃ ৮ অঃ ১১৪ ও নারদ-স্মৃতি-পরিশিষ্টম্ ৪১।

৩ ব্রাহ্মণন্তু বিবাসয়েৎ। যাজ্ঞবল্ক্য-স্মৃতিঃ।

৪ বধাদৃতে ব্রাহ্মণশ্চ ন বধং ব্রাহ্মণোহহঁতি।

শিরসো মুণ্ডনং দণ্ডস্তশ্চ নির্বাসনং পুরাণং ॥

নারদ-স্মৃতিঃ ১৪ অঃ ৯।

### ক্ষেত্রবিশেষে মিথ্যাসাক্ষ্যে দোষাভাব

যেখানে ব্রাহ্মণাদি বর্ণত্রয়ের ( কাহারও মতে চতুর্বর্ণেরই ) দৈবাৎ সাহসকার্য্য করার জগ্ন রাজশাসনে প্রাণদণ্ডাজ্ঞা হইয়াছে, সে স্থলে যদি কেহ মিথ্যাসাক্ষ্য দিয়া সেই দণ্ডই ব্যক্তিকে প্রাণদণ্ড হইতে অব্যাহতি করিয়া দেয়, তাহা হইলে সেই সাক্ষী মিথ্যাসাক্ষ্য দিলেও দণ্ডনীয় হইবে না। তবে যোর পাপিষ্ঠের উদ্ধারকল্পে যদি ঐরূপ মিথ্যা প্রয়োগ করা হয় তবে তথায় সে দোষের দণ্ড হইবে।<sup>১</sup>

যে ক্ষেত্রে সত্য বলিলে বা মিথ্যা বলিলেও বাদী বা প্রতিবাদী অগ্রতরের বধদণ্ড নিশ্চিত, সে স্থলে সাক্ষীর মৌনী হইয়া থাকাই সম্ভব। কিন্তু যদি বিচারক বিশেষ উপরোধ করেন, তখন সে ক্ষেত্রে সাক্ষী সত্য কথাই বলিবেন।<sup>২</sup>

উপরে “যেখানে ব্রাহ্মণ প্রভৃতি বর্ণত্রয় বা চতুর্বর্ণ বধদণ্ডের পাত্র হয়” বলা হইয়াছে, সে বিষয়ে প্রশ্ন হইতেছে যে ব্রাহ্মণের বধদণ্ড শাস্ত্রানুমোদিত না থাকায় কিরূপে ঐ বাক্য সম্ভব হয়। তদুত্তরে বলা আছে যে ব্রাহ্মণের বধদণ্ড শাস্ত্রে না থাকিলেও “রাজা উগ্রদণ্ড হইয়া থাকেন” এই অনুসারে যদি কদাচিত্ ব্রাহ্মণের প্রতিও বধদণ্ড প্রযুক্ত হইয়া থাকে, সেরূপ ক্ষেত্রে ব্রাহ্মণের রক্ষাকল্পে মিথ্যাসাক্ষ্য দেওয়া দোষজনক হইবে না, ইহাই বাক্যের অভিপ্রায়।

বিশেষতঃ বধরক্ষাভিপ্রায়ে কূটসাক্ষ্য সত্য অপেক্ষা প্রশস্ত বলা হইয়াছে।<sup>৩</sup>

<sup>১</sup> নান্তবচনে দোষো জীবনক্ষেত্ৰদধীনম্।

ন তু পাপীয়সাং জীবনম্ ॥ গোতমধর্ম্মসূত্রম্।

<sup>২</sup> বর্ণিনাং হি বধো যত্র তত্র সাক্ষ্যান্তং বদেৎ।

যাজ্ঞবল্ক্যঃ ৮৫।

<sup>৩</sup> শূদ্রবিট ক্ষত্রবিপ্রাণাং যত্রতোক্তৌ ভবেদধঃ।

তত্র বক্তব্যমনৃতং তদ্বি সত্য্যদিশিষ্যতে ॥

## কৌটসাক্য-দ্বারা বধ রক্ষা হইলেও তাহার প্রায়শ্চিত্ত

যেখানে মিথ্যাসাক্য প্রদান করিয়া ব্রাহ্মণাদি চতুর্বর্ণের মধ্যে যে কোন ব্যক্তির প্রাণ রক্ষা করা হইল, সেখানে কূট সাক্য দিবার আজ্ঞা যেমন দেখা যায় তেমনি কূটসাক্য-দাতাকেও মনু, যাজ্ঞবল্ক্য প্রভৃতি ঋষিগণ সেই পাপের প্রশমন-জন্ম একটা প্রায়শ্চিত্ত-স্বরূপ সংস্কৃত চরু-দ্বারা সারস্বত হোম করিবার ব্যবস্থা দিয়াছেন।<sup>১</sup>

এই প্রায়শ্চিত্ত-ব্যবস্থা-বিষয়ে মনীষী পণ্ডিতগণের ভিন্ন ভিন্ন সিদ্ধান্ত পরিলক্ষিত হয়।

কুল্লুকভট্ট প্রভৃতি বলেন যে, এ ক্ষেত্রে কৌটসাক্য ধর্মজনক হওয়ায় ইহাতে প্রায়শ্চিত্তের সম্ভাবনাই হয় না; সুতরাং শাস্ত্রে যে প্রায়শ্চিত্তের উপদেশ আছে তাহা “মিথ্যা বলিবে না, বলিলে পাপী হইবে”<sup>২</sup> এই সাধারণ নিষেধ-বাক্য লঙ্ঘন করার দোষক্ষালন করিবার জন্মই বিহিত হইয়াছে, ইহাই বুঝিতে হইবে।

যাজ্ঞবল্ক্য-স্মৃতির টীকাকার মীমাংসক বিজ্ঞানেশ্বর এ বিষয়ে বলেন যে, “সত্য কথাই বলিবে মিথ্যা বলিবে না”<sup>৩</sup> এই নিষেধাজ্ঞার অপবাদ করার জন্য এই প্রায়শ্চিত্তের বিধান হয় নাই। ইহা মিথ্যাসাক্য দেওয়ার জন্য যে দোষ উৎপন্ন হইয়াছে তাহারই ক্ষালন-জন্ম বিহিত হইয়াছে, এবং বলবৎ মিথ্যাসাক্য দেওয়ার জন্ম ক্রিয়মাণ প্রায়শ্চিত্তে ক্ষুদ্র সামান্য মিথ্যা বলার দোষও যে খণ্ডিত হইবে ইহা সিদ্ধান্ত নহে।

বধরক্ষার অভিপ্রায়ে কূটসাক্য ধর্মসম্মত হইলেও তাহাতে সাধারণ মিথ্যা বলার জন্ম যে পাপ হইবে সেই কৌটসাক্য পাপের প্রায়শ্চিত্তে এই

<sup>১</sup> বর্ণিমাং হি বধো যত্র তত্র সাক্ষ্যনৃতং বদেৎ।

তৎপাবনায় নির্বাপ্যশ্চরুঃ সারস্বতো ষিঞ্জৈঃ ॥

যাজ্ঞবল্ক্যঃ ৩ অঃ ৮৫।

<sup>২</sup> অক্রবন্ বিক্রবন্ দাপি নরো ভবতি কিম্বিধী। কাষ্ঠ্যায়ন-স্মৃতিঃ।

<sup>৩</sup> সত্যং ক্রয়াৎ নানৃতং বদেৎ। শ্রুতিঃ।

মিথ্যা বলার পাপের ধ্বংস হইবে না। নিম্নিক মিথ্যা কথা বলার জন্য যে পাপ তাহা থাকিয়া যাইবে।

যদিও গুরু প্রায়শ্চিত্তে লঘু পাপক্ষয়-রূপ তত্ত্বতার অনুসরণ সাধারণ ক্ষেত্রে ঘটিয়া থাকে, এখানে তাহা হইবে না; সুতরাং প্রায়শ্চিত্ত করিলেও সাধারণ মিথ্যা কথা বলার পাপ থাকিয়া যাইবে।

ভারতীয় শাস্ত্রে স্থলবিশেষে বাদি-প্রতিবাদীর মধ্যে বিচারক প্রথম কাহার কথা শুনিবেন সে বিষয় নারদ বলিয়াছেন, “উভয়ের মধ্যে যাহার অধিক পীড়া বা গুরুতর অলঙ্ঘনীয় কার্যোপরোধ বুঝা যাইবে তাহারই কথা প্রথমে শুনিয়া লইবেন।”<sup>১</sup>

### সাক্ষিদৈর্ঘ্যে কর্তব্য

সাক্ষীরা যদি পরস্পর ভিন্ন ভিন্ন বাক্য বলিয়া থাকে সে স্থলে অধিক সংখ্যক সাক্ষীর মুখে যে কথা শুনা যাইবে তাহারই অনুসরণ করিয়া বিচার করিতে হইবে।<sup>২</sup>

যে ব্যবহারে (মামলায়) অর্থী ও প্রত্যর্থীর সমানসংখ্যক সাক্ষিগণ স্ব স্ব পক্ষের অনুকূলে সাক্ষ্য দিল এবং তাহাতে দেখা গেল যে উভয় পক্ষেরই প্রমাণ সমানভাবে উপলব্ধ হইয়াছে, সে স্থলে যে পক্ষের সাক্ষিগণকে বেশী গুণবান্, অনুষ্ঠানপরায়ণ ও ধার্মিক বলিয়া বুঝা যাইবে তাহাদের সাক্ষ্যই গ্রাহ্য হইবে।<sup>৩</sup>

১. যত্র বাহভ্যাপিকা পীড়া কাশ্যং বাহভ্যাপিকং ভবেৎ।

তস্তাগ্রবাদো দাতব্যো ন যঃ পূৰ্ব্বং নিবেদয়েৎ ॥

নারদ-শ্রুতিঃ।

২. দৈর্ঘ্যে বহুনাং বচনং সমেষু গুণিনাং তথা।

গুণিদৈর্ঘ্যে তু বচনং গ্রাহ্যং যে গুণবত্তমাঃ ॥ যাজ্ঞবল্ক্যঃ ৮০।

৩. বহুত্বং পরিগৃহীয়াং সাক্ষিদৈর্ঘ্যে নরাধিপঃ।

সমেষু চ গুণোৎকৃষ্টান্ গুণিদৈর্ঘ্যে দ্বিজোত্তমান্ ॥



চরিত্র, অনুষ্ঠান ও আচারেও যদি উভয় পক্ষের সাক্ষী সমান হয় ও ভিন্ন ভিন্ন সাক্ষ্য দেয়, সে স্থলে দেখিতে হইবে যে ইহাদের মধ্যে কে মেধাবী অর্থাৎ অধিক স্মৃতিশক্তিমান; যাহাদের অধিক মেধাবিত্ব বুঝিতে পারা যাইবে তাহাদেরই সাক্ষ্য প্রমাণরূপে গ্রাহ্য হইবে । ১

### কেবল সাক্ষ্যই প্রমাণ

ভৃত্যদের বেতন দেওয়া বা না দেওয়ার মামলায়, প্রভুদের বহির্গমনে, দ্রব্যাদির বিক্রয়ে বা ক্রয়াদির সাহায্য-গ্রহণে, বিক্রয় করিয়াও ফিরাইয়া লইবার ক্ষেত্রে, দ্যুতকার্য্যে অর্থাৎ জুয়াখেলায় উপস্থাপিত অভিযোগে, সাধারণ বিবাদে এবং আহ্বানক্ষেত্র-ঘটিত ব্যবহারে উপস্থাপিত মামলায় একমাত্র সাক্ষ্যই প্রমাণ হইবে । ২

এই সকল কার্য্য সাক্ষ্য-দ্বারা প্রমাণিত না হইলে দিব্য বা লেখ্য কোন কার্য্যকারী হইবে না ; অর্থাৎ সাক্ষ্য-দ্বারা প্রমাণিত না হইলে অন্য প্রমাণের অনুসরণ করা হইবে না ।

সাহসকার্য্যে অর্থাৎ বলপূর্ব্বক সাক্ষাতে পরদ্রব্য-হরণ ( ডাকাতি ) এবং নিষ্ঠুর ব্যবহারাদি যে কোন প্রকার বলের কার্য্যে ( ফৌজদারী মামলায় ) সাক্ষ্যই প্রথম প্রমাণ ।

সাক্ষিবিপ্রতিপত্তৌ তু প্রমাণং বহবো মতাঃ ।

তৎসাম্যে গুচরৌ গ্রাহ্যাত্তৎসাম্যে স্মৃতিমন্তরাঃ ।

নারদ-স্মৃতিঃ ৩ অঃ ২২৯ ।

দত্তাদত্তেহথ ভৃত্যানাং স্বামিনাং নির্গমে সতি ।

বিক্রয়াদানসম্বন্ধে বিক্রীত্বা ধনমিচ্ছতি ।

দ্যুতে সমাহ্রয়ে চৈব বিবাদে সমুপস্থিতে ।

সাক্ষিণঃ সাধনং প্রোক্তং ন দিব্যং ন চ লেখনম্ ॥

ব্যবহারতত্ত্বধৃত-স্মৃতিবচনম্ ।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৩৩

বিবাদবিশেষে সাক্ষীর সাহায্যে সিদ্ধান্তে উপনীত হইতে না পারিলে দ্বিতীয় প্রমাণরূপে দিব্যই অবলম্বিত হইতে পারিবে। সে ক্ষেত্রে লেখ্য কোন প্রমাণেই আসিবে না।<sup>১</sup>

ঋণসম্বন্ধীয় অভিযোগে ক্ষেত্রবিশেষে সাক্ষীর নিকট হইতেই  
ঋণপরিশোধের ব্যবস্থা

যেখানে “ঋণ-পরিশোধ করিতেছে না” এই বলিয়া অভিযোগ হইবে সেখানে অভিযোক্তা সাক্ষ্য দ্বারা নিজের অনুকূলেই প্রমাণ দিবেন। কিন্তু প্রতিবাদী যদি বুঝেন যে ঐ সকল সাক্ষ্য বিশ্বাসযোগ্য নহে তথাপি প্রতিবাদীর অপর কোন ক্রিয়া অর্থাৎ বিশিষ্ট সাক্ষী (সাফাই সাক্ষী) প্রভৃতি শাস্ত্রে প্রতিরুদ্ধ থাকায় তাঁহাকে পরাজয়-স্বীকার করিতে হইবে।<sup>২</sup>

তবে এ ক্ষেত্রে বিচারক সপ্তাহকাল তাঁহাকে টাকা দিবার সময় দিবেন। কারণ বাদীর সাক্ষী যদি মিথ্যা সাক্ষ্য দিয়া থাকে তাহা হইলে সাতদিন-মধ্যেই সেই সাক্ষীর মিথ্যা বলা জন্ম পাপে বিশিষ্ট রোগ, গৃহদাহ ও জ্ঞাতিমরণ অবশ্যস্বাবী বলিয়া ত্রিকালভক্ত ঋষিগণ বলিয়া গিয়াছেন।

সুতরাং এই সকলের অন্তর ঘটনা যদি সাক্ষীর পক্ষে উপস্থিত হয় তখন বিচারক বুঝিবেন যে বিচার ধর্ম্যসম্মত হয় নাই। তখন সেই ঋণ ঐ

<sup>১</sup> প্রক্রান্তে সাহসে বাপি পাঞ্চয়ে দণ্ডবাচিকে।

বলোত্তরেযু কার্যেযু সাক্ষিণো দিব্যমেব চ ॥

ব্যবহারতত্ত্বধৃত-স্মৃতিবচনম্।

<sup>২</sup> ন চৈকস্মিন্ বিবাদে তু ক্রিমা-গ্ৰাহাদিনোদ্রয়োঃ।

কাত্যায়ন-বচনম্।

সাক্ষী দ্বারাই শোধ করাইবেন, এবং সাক্ষীকে ঐ অপরাধে যথাসম্ভব দণ্ড দিবেন । ১

### পূর্বোক্ত বিষয়ে একটা সূক্ষ্মসিদ্ধান্ত

যদি বিচারকার্য নিষ্পন্ন হইয়া থাকে এবং অতঃপর সাক্ষী প্রমাণরূপে দেখান হইবে বলিয়া বিচারকের নিকট আবেদন করা না থাকে সে স্থলে সেই অনাবেদিত সাক্ষ্য প্রমাণ উপস্থাপিত করা হইলেও তাহা প্রমাণ-মধ্যে গণ্য হইবে না । উহা পক্ষ দ্বারা বর্ষাগমের ন্যায় নিষ্ফল তো হয়ই প্রত্যুত অনিষ্টকরই হইয়া থাকে । ২

তথাপি ইহা সত্য যে সাক্ষী পরীক্ষার পরও সাক্ষীর বাক্য পরীক্ষা করিবার কথা শাস্ত্রে বিহিত আছে । ৩ এজন্য সাক্ষ্য হইয়া গেলেও যদি বিচারক সভ্যজনের সহযোগে ঐ সাক্ষ্য দূষিত বলিয়া বুঝেন তাহা হইলে প্রার্থনামতে পুনরায় সাক্ষ্য দেওয়া অনুমোদন করিতে পারেন ।

কিন্তু ব্যবহারের সিদ্ধান্ত হওয়ার পরে উপস্থাপিত প্রমাণ বিফল বলিয়া শাস্ত্রের অভিমতি । তবে কেবল মাত্র জয়-পরাজয়-জ্ঞাপক আজ্ঞাপ্রচার যদি বাঁকী থাকে তখন ক্রিয়ান্তর স্বীকার শাস্ত্রসম্মত । সুতরাং এখানে পুনঃ সাক্ষিকরণ হইবে ; এবং এক পক্ষের সাক্ষীর সাক্ষ্য হইয়া গেলে অপর পক্ষের সাক্ষীর বিপরীতবাদী হইলেও যদি সংখ্যায় বেশী ও গুণবত্তম হয় তবে পূর্বসাক্ষীর কূটসাক্ষী বলিয়া অগ্রাহ্য হইবে । ৪

১ যন্ত দৃষ্টেত সপ্তাহাহত্ববাক্যন্ত সাক্ষিণঃ ।

রোগোহগ্নিজ্জীতিমরণমুণং দাপ্যো দমঞ্চ সঃ ॥

মন্তুঃ ৮ অঃ ১০৮ ।

২ নির্ণাতে ব্যবহারে তু প্রমাণমফলং ভবেৎ ।

লিখিতং সাক্ষিণো বাপি ন চেৎ পূর্বং নিবেদিতম্ ॥ নারদ-স্মৃতিঃ ।

৩ যদি শুদ্ধা ক্রিয়া শ্রায়াদ্ভদা তদ্বাক্যশোধনম্ ।

শুদ্ধাচ্চ বাক্যাদ্ যঃ শুদ্ধঃ স শুদ্ধোহর্থ ইতি স্থিতিঃ ॥

কাত্যায়ন-বচনম্ ।

৪ উক্তেহপি সাক্ষিভিঃ সাক্ষ্যে যন্তে গুণবত্তরাঃ ।

দ্বিগুণা বাহৃত্যথা ক্রয়শুদা স্য্যঃ কূটসাক্ষিণঃ ॥ কাত্যায়ন-বচনম্ ।

সাক্ষ্য গৃহীত হওয়ার পরও পুনঃ সাক্ষ্যকরণ  
( সাফাই সাক্ষী )

কতকগুলি ব্যবহার অর্থাৎ মকদ্দমা “ভাবরূপ”—যেমন বাদী অভিযোগ আনিল যে “এবস্ত্রটি আমার ;” প্রতিবাদী বলিল “না, এবস্ত্রটি আমার ।”

এখানে উভয়ের বাক্যই ভাবরূপ অর্থাৎ বস্তুর সন্তাঘটিত বিচারেরই প্রয়োজন হইতেছে ।

এক্ষেত্রে প্রতিবাদী যদি বাদীর সাক্ষ্য নিজের বিশ্বাসের প্রতিকূলতা বুঝেন তখন তিনি বিচারকের আদেশ লইয়া অগ্ন সাক্ষী দেওয়াইতে পারেন । ভারতীয় ব্যবহার শাস্ত্রে ইহার নাম “অগ্ন সাক্ষিকরণ” বা সাফাই সাক্ষী দেওয়া ।

‘ “পূর্ববাদী সাক্ষীর গ্রাহ্যতা” বলিয়া এই প্রকরণে পূর্বের যে আলোচনা করা হইয়াছে আপাততঃ তাহার সঙ্গে একথাটির অনৈক্য ঘটিতেছে সত্য তবে সে বিষয়ে বাদী প্রতিবাদীর বাক্যদ্বয় ক্রমিক ভাব ও অভাবরূপ হইলে কোনই অসামঞ্জস্য থাকে না । তথাপি সে বিষয় এইমাত্র বলা যায় যেখানে উভয়েরই সাক্ষ্য-প্রমাণ অবধারণ হইল সেখানে পূর্ববাদীর সাক্ষীর গ্রাহ্যতা । আর যেখানে প্রতিবাদী বিচার আনিবার পর কোন সাক্ষ্য দেওয়াইব বলিয়া জানান নাই, নিজে বুঝিয়া ছিলেন কখনই এ মিথ্যা প্রমাণিত হইবে না তারপর যখন বাদীর সাক্ষ্য নিজের প্রতিকূল হইল দেখিলেন তখন বিচারককে জানাইয়া যে পুনরায় সাক্ষী দেওয়াইতে পারিবেন ইহাই এখানকার বক্তব্য বিষয় ।

আর যদি বাদী “অমুক আমার এত টাকা, বা গোরু বা বস্ত্র ধারে” বলিয়া মামলা আনে ও সেই মামলায় প্রতিবাদী যদি উত্তর দেয় যে, “আমি ধারি না ।” এরূপ স্থলে বাদীর কথা ভাবরূপ প্রতিবাদীর কথা অভাবরূপ । এখানে বাদীর সাক্ষ্য অভিযোগ প্রমাণ হইলে প্রতিবাদী আর সাক্ষ্য মানিতে পারিবে না । তবে বাদী যদি বুঝে যে তাহার নিজের সাক্ষী মিথ্যা বলিয়াছে সেখানে বাদী পুনঃ সাক্ষিকরণের অনুমতি লইয়া সাক্ষ্য দেওয়াইতে পারে । কিন্তু ঋণঘটিত মামলায় পুনঃ সাক্ষী নাই ।

এই মীমাংসা যান্ত্রবন্ধ্য-বচনের উপর আপ্তজনেরা করিয়াছেন ।

### পূর্ববাদের সাক্ষীর গ্রাহ্যতা

একবস্ত্র উপলক্ষ করিয়া উভয়ে নিজের বলিয়া বিবাদ করিতেছেন। উভয়েরই সাক্ষী রহিয়াছে। এ ক্ষেত্রে প্রাচীন ব্যবহারশাস্ত্রের সিদ্ধান্ত পূর্ববাদের সাক্ষীই প্রমাণরূপে পরিগৃহীত হইবে।<sup>১</sup>

ইহার এই একটা উদাহরণ মিতাক্ষরায় উল্লিখিত আছে যে—

যেমন কেহ আসিয়া বলিল “তোমার কাছে যে বুঘটী রহিয়াছে সেটা আমার বুঘ। আমার বাড়ী থেকে চোর চুরি করিয়া লইয়া গিয়াছিল এবং এটা যে আমার তাহা আমি সাক্ষী দ্বারা প্রমাণ করিতেছি।”

ইহাতে উত্তরবাদী বলিল “বিধাতার সৃষ্টিতে স্তম্ভদশ বস্তুর সৃষ্টি অসম্ভব নহে। তোমার বুঘের সাজাত্য দেখিয়া যদি ইহাকে নিজের বল তবে পরস্পরিতেও নিজ পত্নীর আংশিক সাজাত্য দেখিয়া লোকে নিজের স্ত্রী বলিয়া দাবী করিতে থাকুক। এ বুঘটী অমুক গ্রামের অমুকের ছিল। আমি কারণবশে পাইয়াছি ইহা সেই গ্রামেরই সাক্ষী আনাইয়া প্রমাণ করিয়া দিতেছি।”

এখানে পূর্ববাদের সাক্ষী প্রমাণ এবং উত্তরবাদের সাক্ষী অপ্রমাণ। ইহা প্রাচীন ভারতের আইন। এখানেও পূর্ববাদের সাক্ষীর বাক্যে বিশ্বাস রাখিবার সূক্ষ্ম অনুসন্ধান আবশ্যিক।<sup>২</sup> তবে পূর্বপক্ষ দুর্বল বুঝিলে প্রতিবাদেরই জয়-সিদ্ধি।

<sup>১</sup> দ্বয়োবিবাদতোরথে দ্বয়োঃ সংস্র চ সাক্ষিষু।

পূর্বপক্ষো ভবেদ্ যস্ত ভবেয়ুস্তস্ত সাক্ষিণঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ১৬৩।

<sup>২</sup> পূর্বপক্ষেধরীভূতে ভবন্ত্যুত্তরবাদিনঃ ॥

একবস্ত্র উপলক্ষে বিবাদমান উভয়ের সাক্ষীর সাক্ষ্য  
গ্রহণের পর সিদ্ধান্ত

পূর্বকথিত বিবাদক্ষেত্রে পূর্বপক্ষের সাক্ষী যদি কূট হইতেছে বুঝা যায়, তবে সে স্থলে উত্তরবাদীর সাক্ষীকেও প্রশ্ন করিতে পারা যায় এবং সেখানে সত্যাসত্য-নির্ণয় বিশ্বাস মতে করা হইবে।<sup>১</sup>

সাক্ষী প্রমাণের উপর নির্ভর করিয়াই পূর্ববাদী বা পশ্চাদ্বাদীর জয় পরাজয় হইবে, নচেৎ পূর্ববাদীর সাক্ষীর বিশুদ্ধতা বুঝিলে তাহারই জয়াবধারণ সম্ভব হইবে না।<sup>২</sup>

ঋণ-বিবাদে বিশেষ সিদ্ধান্ত

যেখানে বাদীর সাক্ষী দ্বারা ঋণ ও প্রতিবাদীর সাক্ষী দ্বারা ঋণশোধ এই উভয়ই প্রমাণিত হইল, সেখানে ঋণ-শোধ হইল উত্তরক্রিয়া, সূত্রাং তাহাই গ্রাহ্য।

তবে বন্ধক, প্রতিগ্রহ বা ক্রয়-ঘটিত বিবাদ হইলে পূর্বক্রিয়া অর্থাৎ বাদীর পক্ষের প্রমাণের বিশুদ্ধি বুঝিলে বিচারক বাদীরই জয় দিবেন। ইহা প্রাচীন ভারতের সিদ্ধান্ত। বর্তমান ইংরাজী আইনে এখানে ন্যায়ের গৌরব থাকায় সদসদ্বিচার-পূর্বক জয় পরাজয় হইয়া থাকে।

<sup>১</sup> আধর্ঘ্যং পূর্বপক্ষস্ত যন্নিবন্ধবশাদ ভবেৎ।

বিবাদে সাক্ষিগন্তস্ত প্রষ্টব্যঃ প্রতিবাদিনঃ ॥

নারদ-স্মৃতি: ৩ অ: ১৬৪।

<sup>২</sup> কলহে পূর্বাগতো জয়ত্যাশ্রয়মাণো হি প্রধাবতি।

ইত্যাচাধ্যায়া:।

ন ইতি কোটিল্যঃ, পূর্বং পশ্চাদ্ আগতস্ত সাক্ষিণঃ প্রমাণম্।

কোটিল্য: ১৯৬ পৃ:।

## প্রকীর্তক

একটি ঘটনা ভিন্ন ভিন্ন স্থানে ভিন্ন ভিন্ন কালে সংঘট্ট থাকায় ভিন্ন ভিন্ন সাক্ষী দ্বারা আংশিক ভাবে প্রমাণিত হইয়া একটি স্থূল প্রমাণ দ্বারা উপস্থিত হইয়া মূলঘটনাটিকে প্রমাণ করাইয়া দেয়। সুতরাং সেখানে যে সাক্ষী দ্বারা যেটুকু প্রমাণ হইবে, তাহাই বিচারক গ্রাহ্য করিয়া লইবেন।<sup>১</sup>

ইহা যেমন ভারতীয় প্রাচীন ব্যবহারশাস্ত্রের অভিপ্রায় দেখা যায় তেমনি বর্তমান ভারতীয় ব্রিটিশ আইনের (Evidence Act) ৬,১০, ৫,১৬ নং ধারায় এই অভিপ্রায়ই প্রকটিত আছে দেখা যায়।

ভূমিকাতেও বলিয়াছি যে প্রাচীন ভারতীয় আইনে সাক্ষীর মুখে প্রাসঙ্গিক অপ্রাসঙ্গিক ও অধিক সকল কথাই শুনা যাইবে। তাহার মধ্যে বিচারক প্রাসঙ্গিকই গ্রহণ করিবেন।<sup>২</sup> ইংরাজী আইনে অপ্রাসঙ্গিক কথা বলিতেই দেওয়া হয় না।

## ইতি সাক্ষিপ্রকরণ

- ১ বিভিন্নস্থানে বজ্জাতং সাক্ষিভিষ্চাংশতঃ পৃথক্ ।  
একৈকং বাদয়েন্তত্র বিধিরেষঃ সনাতনঃ ॥

শুক্লনীতিসারঃ ৪ অঃ ১৯৯

- ২ উনং বাপ্যাধিকং বাক্যং প্রকৃয়ুর্ধত্র সাক্ষিণঃ ।  
তদপ্যনুভুতং বিজ্ঞেয়মেব সাক্ষ্যবিধিঃ স্মৃতঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ৩৪ ।

## দ্বিতীয় মানুষ-প্রমাণ বা

### লেখ্য-প্রমাণ

বিচারকার্যের উপযোগবিষয়ে যে মানুষপ্রমাণের উল্লেখ করিয়া আসিয়াছি, লেখ্য তাহার মধ্যে দ্বিতীয় প্রমাণ। সে বিষয় বলিতে হইলে প্রথমেই জানিতে হইবে “লেখ্য” কি এবং তাহাকে কেন প্রমাণ করিতে হয়।

লেখ্য বা লিখিত অর্থাৎ পত্রাদিতে লেখা। মানুষের অধিকাংশ স্থলেই অনুভূত বিষয়ে কালে অর্থাৎ কোন কোন স্থলে ছয় মাসের পরেই ভ্রম হয়। এজন্য বিধাতার স্মৃতি অক্ষরাবলীর সাহায্যে লিপি করিয়া রাখা আবশ্যিক।<sup>১</sup>

দেশ, কাল, দ্রব্য, পরিমাণ ও সীমাবধারণ-ক্ষেত্রে লিখিত পত্রই প্রশস্ত চক্ষুঃস্বরূপ হইয়া সকল প্রকার সন্দেহ নিরাকরণ করিয়া থাকে।<sup>২</sup>

\* স্মৃতি বিলোপ হইলেও পত্রে লেখা থাকিলে তাহার বিসংবাদ হয় না। লিখিত শব্দটী লেখা অর্থে লিখ্ধাতু হইতে সাধিত হইয়াছে।

### লেখ্যের প্রকার-ভেদ

লেখ্য প্রথমতঃ দুই প্রকার—১। রাজকীয় ও ২। লৌকিক।<sup>৩</sup> রাজকীয় লেখ্য রাজার স্বহস্ত লিখিত ও স্বাক্ষর-সংযুক্ত বা রাজার নামাক্তিত মুদ্রায় চিহ্নিত হইয়া থাকে।<sup>৪</sup>

প্রজা-নির্বিশেষে এই লেখ্য প্রযুক্ত হইলে তাহা সাক্ষিযুক্ত হইবে।

<sup>১</sup> যাণ্মাসিকেহপি সময়ে ভ্রান্তিঃ সংজায়তে যতঃ।

ধাত্ৰাহক্ষরাণি সৃষ্টানি পত্রাক্রদ্যান্যতঃ পূরা ॥

ব্যবহারতত্ত্বে বৃহস্পতিঃ।

<sup>২</sup> দেশ-কাল-ফল-দ্রব্য-প্রমাণাবধি-নিশ্চয়ে।

সর্ব-সন্দেহ-বিচ্ছেদি লিখিতং চক্ষুরন্তমম্ ॥

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নারদ-স্মৃতিঃ ৩ অঃ ৭১।

<sup>৩</sup> রাজকীয়ং লৌকিকঞ্চ লিখিতং দ্বিবিধং স্মৃতম্। শুক্রনীতিঃ।

<sup>৪</sup> রাজ্যঃ স্বহস্তসংযুক্তং স্বমুদ্রালাঙ্কিতং তথা।

রাজকীয়ং স্মৃতং লেখ্যং সর্ববর্ণেষু সাক্ষিমং ॥ নারদ-স্মৃতিঃ ৩৮।



এই রাজকীয় লেখ্য আবার শাসনপত্র, জ্ঞাপকপত্র ও নির্ণায়ক-পত্র—এই তিন প্রকার হইয়া থাকে।<sup>১</sup> যাহাতে রাজ্যসম্বন্ধে ক্রয়-বিক্রয়াদির পরিমাণনির্দেশ, এবং ইহার অন্তর্ভুক্তকরণে দণ্ডের উল্লেখ, ও দ্রব্যের মূল্য-নির্ধারণ প্রভৃতি আদেশ থাকে তাহাই শাসনপত্র।

আর যাহাতে মকদ্দমার রায় ও ভূমির স্বত্বাবধারণ ইত্যাদি কথা থাকে তাহা নির্ণায়কপত্র।

এবং প্রজাবর্গের প্রতি আদেশ-পত্র যাহাকে ইংরাজীতে সাকুলার বলে তাহারই নাম জ্ঞাপকপত্র।

কেহ কেহ নির্ণায়কপত্রকে জয়পত্র নামেও নির্দেশ করেন।

### লৌকিক লেখ্য

লৌকিক লেখ্যও দুই প্রকার।<sup>২</sup> নিজের হাতে লেখা ও পরদ্বারা লেখান। এই দুই প্রকার লেখ্যই দেশ, কাল ও পাত্রের অবস্থা অনুসারে সাক্ষিযুক্ত এবং সাক্ষিশূন্য হইয়াও প্রমাণ হয়। তবে পরদ্বারা লেখান লেখ্যটিতে সাক্ষি-সমাবেশ অবশ্য অপেক্ষণীয় আছে; অর্থাৎ তাহাতে সাক্ষীর স্বাক্ষর না থাকিলে প্রমাণই হইত না।<sup>৩</sup> স্বহস্ত লিখিত লেখ্যপত্রে সাক্ষী না থাকিলেও প্রমাণ হইত। তবে স্বেচ্ছায় নিজের হাতে লেখা চাই, নচেৎ

<sup>১</sup> পত্র-কুটম্ব নৃপতেস্ত্রিবিধং রাজশাসনম্।

শাসনার্থং জ্ঞাপনার্থং নির্ণয়ার্থং তৃতীয়কম্ ॥

গুরুনীতি; ৪ অঃ ১৭৫।

<sup>২</sup> লেখ্যস্ত দ্বিবিধং জ্ঞেয়ং স্বহস্তাশ্রকৃতং তথা।

অসাক্ষিমং সাক্ষিমচ্চ সিদ্ধিদে শস্থিতেন্তয়োঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ।

<sup>৩</sup> বিনাপি সাক্ষিভিলেখ্যং স্বহস্তলিখিতঞ্চ যৎ।

তৎ প্রমাণং স্মৃতং লেখ্যং বলোপধিকৃতাদৃতে ॥

যাজ্ঞবল্ক্যঃ।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৪১

জোর করিয়া কি ছলের অনুসরণে লেখান হইয়া থাকিলে উহা প্রমাণ হইবে না।

এই লৌকিক লেখ্য সাত ভাগে বিভক্ত।—১ বিভাগ পত্র। ২ দান পত্র। ৩ ক্রয় পত্র। ৪ আধি পত্র। ৫ প্রতিজ্ঞা পত্র। ৬ ঋণ পত্র। ৭ দাসক্রয়াদির নির্দ্ধারক পত্র।<sup>১</sup>

বিভাগ পত্র উভয়ের সম্মতি অনুসারে হইত। ইহাতে সাক্ষী থাকা চাই। অগ্ৰথায় পিতৃকৃত বিভাগও অসিদ্ধ হইত। ইংরাজী আইনের (Evidence Act) ৬৮ ধারার সঙ্গে ইহার সামঞ্জস্য দেখা যায়।

যে লেখাটী দেশাচারের অবিরোধী এবং যাহাতে স্পষ্টরূপে কালের নির্দেশ আছে, যাহাতে লিপির ক্রম আছে, যে লেখা মুছিয়া যাইবার সম্ভাবনা নাই, তাহাই প্রমাণ।<sup>২</sup>

ঋণ পত্র লিখিতে হইলে বন্ধকী বস্তুর এবং দাতা ও গ্রহীতার সুস্থতার কথা উল্লেখ থাকিবে। স্বয়ং লিখিতে না পারিলে লক্ষণাভিজ্ঞ ব্যক্তিকর্তৃক লিখিত হইলে প্রমাণ হইবে। বিশেষতঃ লেখ্যবর্ণিত বিষয় সুদীর্ঘকালেও প্রমাণরূপে গ্রাহ্য হয়।<sup>৩</sup>

<sup>১</sup> ভাগ-দান-ক্রয়াদীনাং সংবিদ্যাসংঘণাদিভিঃ।

সপ্তধা লৌকিকৈকৈতৎ ত্রিবিধং রাজশাসনম্ ॥

বৃহস্পতিঃ শুক্রনীতিশ্চ ৪ অঃ ১৭৪।

<sup>২</sup> দেশাচারাবিরুদ্ধং যদ্ ব্যক্তোপধিবিলক্ষণম্।

তৎ প্রমাণং স্মৃতং লেখ্যমবিলুপ্তক্রমাঙ্করম্ ॥

নারদঃ ৩অঃ ১৩৬।

<sup>৩</sup> সুদীর্ঘেণাপি কালেন লিখিতং সিদ্ধিমাণুয়াৎ।

আত্মনৈব লিখেজ্জানন্ন চেদন্তেন লেখয়েৎ ॥

নারদঃ ৩অঃ ১৬৭।

## অপ্রমাণ লেখ্য

যদি লেখ্যটি—পাগল, মাতাল, নিজভূতা বা সাধারণতঃ পরাধীন ব্যক্তি, কিংবা ব্রহ্মহত্যাকারী কিংবা জ্বালোক কি বালক দ্বারা লিখিত হয়, তবে তাহা অপ্রমাণ হইবে।<sup>১</sup>

অথবা যে লেখ্য পত্র আপৎকালে কি রাত্রিতে কিংবা মুমূর্ষুব্যক্তি, ভীত-ব্যক্তি, কি পীড়িতব্যক্তি দ্বারা লিখিত হয়, কিংবা যাহা রাত্রিকালে, আপৎকালে বা জোর করিয়া, কি ভয় দেখাইয়া লেখান হইয়াছে তাহা অপ্রমাণ।<sup>২</sup>

মূলকথা জোর করিয়া লেখান মাত্রেই অপ্রমাণ—ইহা মনু বলিয়াছেন। \*

লেখ্য পত্রের মধ্যে রাজকীয় পত্র তিন প্রকার। ইহার মধ্যে নির্ণায়ক পত্রকে জয়পত্র বলে।<sup>৩</sup> এই জয়পত্রের লিখন-প্রণালী দেখিলে সহজেই বুঝা যায় যে বর্ত্তমানে যাহাকে তায়দাদ্ সনন্দ বলে তাহাকে প্রাচ্যশাস্ত্রের মতে জয়পত্র বলা হইয়াছে। কারণ ভূমি প্রভৃতির দান পত্রের রাজার সম্ভাষণচিহ্ন বা অনুগ্রহচিহ্ন স্বরূপ জয়পত্রে প্রতিগ্রহীতা বা অনুগ্রহীতার ব্যবহারপরিচয়ও লেখা হইয়া থাকে।

<sup>১</sup> মত্তাভিযুক্ত-স্ত্রী-বাল-বলাংকারকৃতঞ্চ যৎ ।

তদপ্রমাণং লিখিতং ভীতোপধিকৃতঞ্চ যৎ ॥

নারদ-স্মৃতিঃ ।

<sup>২</sup> মুমূর্ষু-শিশু-ভীতাক্তৈঃ স্ত্রী-মত্ত-ব্যসনাতুরৈঃ ।

নিশাপংসু বলাংকারৈঃ কৃতং লেখ্যং ন সিধ্যতি ॥

ব্যবহারতত্ত্ব বৃহস্পতিঃ ।

<sup>৩</sup> সর্কান্ বলকৃতানর্থানকৃতান্ মমুরব্রবীৎ ॥

মনুঃ ৮অঃ ১৬৮ ।

<sup>৪</sup> দত্তা ভূম্যাদিকং রাজা তাম্রপত্রেংথবা পটে ।

শাসনং কারয়েদ্রম্যস্থানবংশাদিসংযুতম্ ॥

সেবাসৌর্য্যাদিসমুষ্টি-প্রসাদলিখিতন্তু তৎ ।

ক্রিয়াবধারণোপেতং জয়পত্রেংখিলং লিখেৎ ॥

ব্যবহার-মাতৃকা, বৃহস্পতিঃ ।

## সাধারণতঃ পত্র লিখিবার প্রণালী

প্রাচীন শাস্ত্রে সকল প্রকার পত্রের লিখিবার প্রণালী বর্ণিত না থাকিলেও উত্তমর্ণ ও অধমর্ণের পরস্পর সম্মতি ও নির্দ্ধারণ অনুসারে ( কালে বিস্মরণ হইবার আশঙ্কায় ) যেরূপ লেখ্য করিতে হয় সেই মতই অত্যাণ্ড লেখ্য হইতে পারে এই কথার উল্লেখ থাকায় সকল পত্রেরই লেখার পরিপাটী বুঝা যায়।

এক্ষণে সেই ঋণ পত্র লিখিবার পদ্ধতি বলিতেছি। প্রথমে উত্তমর্ণের নাম থাকিবে, পরে অধমর্ণের নাম; তৎপরে ক্রমিক উভয়ের জাতি, গোত্র, শাখা, পিতৃনাম, বাসস্থান, প্রদেশ, ঋণ করিবার মাস, বর্ষ, পক্ষ, তিথি, বেলা, স্থান, উভয়ের আকৃতি ও বয়স লেখা হইবে।

অতঃপর উভয়ের অভিপ্রায় মতে গ্রাহ্য ধন বা বস্তুর উল্লেখ।<sup>১</sup> ঐ সঙ্গে মাসিক দেয় কুসীদ বা বৃদ্ধির কথা লেখা হইবে, এবং কত মাসে বা বর্ষে শোধ্য তাহা লেখা থাকিবে। যদি কোন দ্রব্য বন্ধক রাখা হয় তাহা হইলে তাহার পরিচয় থাকিবে।

বন্ধকী বস্তু যদি ভূমি, বাপী, আরামাদি ( বাগান ) ভোগ্য বস্তু হয় তাহার উল্লেখ ও কতদিন ভোগ-স্বত্ব তাহারও উল্লেখ থাকিবে। বস্ত্রাভরণাদি গোপ্য বস্তু বন্ধক হইলে তাহারও উল্লেখ থাকিবে।

সর্ববশেষে অধমর্ণ নিজ নাম “আমি অমুকের পুত্র অমুক” উপরিলিখিত সমুদয় স্ব ইচ্ছায় লিখিলাম এইরূপ লিখিয়া নিজ নাম স্বাক্ষর করিবেন।

এই লেখ্য পত্রে সাক্ষীর ও লেখকের স্বাক্ষর থাকাও আবশ্যিক। তাহার নিয়ম এই যে—

১ ষঃ কুশ্চিদর্থো নিষ্পাতঃ স্বকৃত্যা তু পরস্পরম্।

লেখ্যাস্ত সাক্ষিমং কার্য্যং তস্মিন্ ধনিকপূর্ব্বকম্ ॥

সমা-মাস-তদর্দ্ধাহন্যম-জাতি-সগোত্রকৈঃ।

সত্রক্ষচারিকাত্মীয়-পিতৃনামাদিচিহ্নিতম্ ॥

সমাপ্তেহর্থে ঋণী নাম স্বহন্তেন নিবেশয়েৎ।

মতং মেহমুকপুত্রস্ত যদত্রোপরি লেখিতম্ ॥

সাক্ষীর নিজ নিজ পিতৃনাম অগ্রে লিখিয়া স্বহস্তে নিজ নাম স্বাক্ষর করিবেন এবং লিখিবেন যে “আমি ইহাতে সাক্ষী হইলাম।”<sup>১</sup>

লেখক ভিন্ন ব্যক্তি হইলে তিনি সর্ববশেষে লিখিবেন “আমি অমুকের পুত্র অমুক, এই পত্র ঋণী ও ধনী উভয়ের সম্মতিক্রমে লিখিলাম।” এই বলিয়া নিজ নাম স্বাক্ষর করিবেন।<sup>২</sup> কারণ যাহা দেশাচারের অবিরুদ্ধ এবং যাহাতে স্পর্শদ্রব্য গ্যাস বা দ্রব্য বন্ধকের কথা থাকে এবং যাহার অক্ষর বিলুপ্ত নহে তাহাই প্রমাণ।<sup>৩</sup>

### অলিপিজ্ঞের কর্তব্য ইত্যাদি

যদি ঋণী, ধনী ( অর্থাৎ উভমর্গ ) বা সাক্ষীর মধ্যে কেহ লিখিতে না জানেন তাহা হইলে অগ্ন্যা সাক্ষীর সম্মুখে অপর লিপিজ্ঞ সাক্ষীর হাত দিয়া নিজ নাম স্বাক্ষর করাইয়া লইলেন।<sup>৪</sup>

<sup>১</sup> সাক্ষিণশ্চ স্বহস্তেন পিতৃনামকপূর্ব্বকম্ ।

অত্রাহমমুকঃ সাক্ষী লিখৈয়ুরিতি তে সমাঃ ॥

যাজ্ঞবল্ক্যঃ ৮৭ ।

<sup>২</sup> উভয়াভ্যর্থিতে নৈতন্ময়া হমুকস্বহুনা ।

লিখিতং হমুকেনেতি লেখকোহস্তে নিবেশয়েৎ ॥

যাজ্ঞবল্ক্যঃ ৮৮ ।

<sup>৩</sup> দেশাচারবিরুদ্ধং যদ্যন্তোপধিবিলক্ষণম্ ।

তৎপ্রমাণং স্মৃতং লেখ্যমবিলুপ্তক্রমাঙ্করম্ ॥

নারদ-স্মৃতিঃ ৩অঃ ১৩৬ ।

<sup>৪</sup> অলিপিজ্ঞ ঋণী যঃ স্মৃত্যং স্বমতস্ত স লেখয়েৎ ।

সাক্ষী বা সাক্ষিগোত্রেণ সর্বসাক্ষিসমীপগঃ ॥

নারদ-স্মৃতিঃ ৩অঃ ।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৪৫

সাক্ষী বিহীন হইলেও, যদি অধমর্গ নিজ হস্তে লিখিয়া দেন, বল বা ছল করিয়া লেখান না হইয়া থাকে, তবে তাহা প্রমাণ হইবে।<sup>১</sup>

ইংরাজী আইনের ৬৮ ধারার সঙ্গে ইহার অসামঞ্জস্য আছে অর্থাৎ সেই ধারায় সাক্ষিশূন্য দলীল অপ্রমাণ বলা হইয়াছে। এখানে প্রাচীন শাস্ত্রের মর্ম্ম যে অধমর্গের হস্তাক্ষর স্থির হইলে সাক্ষী প্রয়োজন নাই নচেৎ প্রয়োজন।

যদি লেখকাদি সকলেরই মৃত্যু হইয়া থাকে তথায় তদীয় অন্তিমলিপি দৃষ্টিে হস্তাক্ষর নির্ণীত হইবে।<sup>২</sup>

লেখ্য পত্র যদি ব্যবহারের অযোগ্য হইয়া থাকে তবে স্বামী ও ধনী উভয়ে সম্মত হইয়া অপর একটা নূতন লেখ্য পত্র প্রস্তুত করিতে পারেন।

### লেখ্য নষ্ট হইলে কর্তব্য-নির্ণয়

লেখ্য পত্র দেশান্তরে থাকিল অথচ সে বিষয়ের বিচার উপস্থিত হইয়াছে তখন বিচারক যদি বুঝেন যে সেই পত্র আনয়ন করা সম্ভব সে ক্ষেত্রে বিচারক সেখানি আনিবার সময় দিবেন।<sup>৩</sup> এবং যদি লেখ্য চুরি যায় এবং লেখা লুপ্ত হইয়ায় পড়ার অযোগ্য হয় কিংবা পুড়িয়া গেলে সত্য-প্রমাণে উদ্ভমর্গ যদি অভিযোগ আনেন, সে স্থলে বিচারক সাক্ষীর মুখে সত্যাসত্য বুঝিয়া বিচার করিবেন।

<sup>১</sup> বিনাপি\*সাক্ষিভিন্নেখ্যং স্বহস্তলিখিতঞ্চ যৎ ।

তৎপ্রমাণং স্মৃতং লেখ্যং বলোপধিকৃতাদৃতে ॥

যাক্তবাক্যঃ ৮৯ ।

<sup>২</sup> অথ পঞ্চত্বমাপন্নো লেখকঃ সহ সাক্ষিভিঃ ।

তৎস্বহস্তাদিভিস্তেষাং নিশ্চিন্ত্যেত্ত্ব ন সংশয়ঃ ॥

শুক্লনীতিঃ ।

<sup>৩</sup> \*লেখ্যে দেশান্তরেষু তু, দগ্ধে, ছল্লিখিতে, হতে ।

সতন্তৎকালহরণমদতো দ্রষ্টৃদর্শনম্ ॥

নারদ-স্মৃতিঃ ১৫২ ।

পূর্ববেলেখ্যে স্বাক্ষরকারী সাক্ষী না থাকিলে যাহারা লেখ্য দেখিয়াছে তাহাদের সাক্ষ্য-প্রমাণ গ্রাহ্য হইবে। তাহারাও অভাব হইলে দিব্যপ্রমাণ অবলম্বন করা হইবে।

সাক্ষী নিজের স্বাক্ষর অস্বীকার করিল অথবা ‘মনে পড়ে না’ বলিল তখন তাহার অন্য লেখার সঙ্গে সামঞ্জস্য করা হইবে।<sup>১</sup>

ইংরাজী আইনের (Evidence Act) ৭১ ধারার সঙ্গে এটির মিল আছে।

লেখ্য পত্রের আংশিক নষ্ট হইলে এবং যদি সে বিষয়ে সাক্ষ্য থাকে অর্থাৎ বিশ্বাসযোগ্য সাক্ষীর মুখে সে কথা শুনা যায়, যে অঙ্কটী নষ্ট হইয়াছে সত্যই উহা এই সংখ্যা ছিল, সে স্থলে তাহা প্রমাণ রূপে গৃহীত হইবে।

লেখ্য পত্রে লিখিত ঋণের মধ্যে ভিন্ন ভিন্ন সময়ে যে যে অংশ শোধ করা হইয়াছে তাহা পত্রের পৃষ্ঠে দাতা দিলাম বলিয়া ও গ্রহীতা পাইলারম বলিয়া লিখিয়া দিবেন ও স্বাক্ষর করিবেন।<sup>২</sup>

সম্পূর্ণ ঋণ শোধ হইলে পত্রখানি ছিঁড়িয়া ফেলিবেন।<sup>৩</sup> যদি পত্র না পাওয়া যায় পূর্বসাক্ষীদের সহযোগে বা সে সকল সাক্ষীর অভাবে অন্ত্যসাক্ষি-সহযোগে উক্তমর্ণ একখানি বিস্তৃত পত্র দিবেন। তাহাতে সমস্ত বুঝিয়া পাইবার কথা লেখা থাকিবে।<sup>৪</sup>

<sup>১</sup> স্বহস্তকৃতসন্দেহে জীবতো বা মৃতস্ত চ।

তৎস্বহস্তকৃতৈরন্যৈঃ পত্রৈস্তল্লেখ্যনির্ণয়ঃ ॥

ব্যবহারতত্ত্বে কাহ্যায়নস্মৃতিঃ।

<sup>২</sup> লেখ্যস্ত পৃষ্ঠেহভিলিখেদ্বা দস্তর্গিকো ধনম্।

ধনী চোপগতং দত্তাং স্বহস্তপরিচিহ্নিতম্ ॥

যাজ্ঞবল্ক্যঃ ৯৫।

<sup>৩</sup> দস্তর্গং পাটয়েল্লেক্যং শুক্যৈ বাহস্তস্ত কারয়েৎ।

যাজ্ঞবল্ক্যঃ ৯৬।

<sup>৪</sup> লেখ্যং দত্তাদিশুদ্ধার্থং তদভাবে প্রতিশ্রবম্।

ধনিকর্ণিকয়োরেবং বিস্তৃদ্ধিঃ স্থাৎ পরস্পরম্ ॥

### সন্দেহ জনক লেখ্য পত্রের বিশুদ্ধির উপায়

যদি লেখ্য পত্রটি বিশুদ্ধ কিনা সন্দেহ হয় তাহা হইলে যদি সেখানে অধমর্গ নিজেই লেখক হয় তবে বিচারক তাহার, আর সে লিখিতে না জানিলে লেখকের ও সাক্ষীর হস্তাক্ষর মিলাইবেন। যদি তাহাতে বর্তমান অক্ষরের সঙ্গে ঐ অক্ষরের সাজাত্য থাকে তবে সেই লেখ্য শুদ্ধ বলিয়া প্রমাণিত হইবে।

লেখ্য পত্রের বর্ণগুলিও বিচার করিতে হইবে ;—তাহা স্থান-ভ্রষ্ট হইয়াছে, কি কোন স্থানে ঘেসাঘেসি লেখা কিনা, এবং অনেক দিনের লেখা অথচ উজ্জ্বল দেখা যায় কি না, তাহা হইলে তাহা কূট লেখ্য হইবে ; এবং যাহাতে একটী মাত্র নিন্দিত সাক্ষী তাহাও সন্দেহযোগ্য, এবম্প্রকার লেখ্যের সত্যতা-প্রমাণ বিশ্বস্ত সাক্ষী দ্বারাই হইবে। ১

আরও দেখিতে হইবে লেখ্যে বন্ধকী বস্তুর উল্লেখ আছে কিনা। যদি থাকে তখন লিখিবার সময়, স্থান ও লেখক পুরুষের সঙ্গে লেখ্যটি সঙ্গত হইতেছে কিনা তাহা দেখিতে হইবে। আরও অনুসন্দের যে উক্ত অধমর্গ ও উদ্ভমর্গের একরূপ বিশ্বাসযোগ্য কার্য্য আর কখন ঘটয়াছিল কিনা এবং উদ্ভমর্গের একরূপ অর্থসমাবেশ সম্ভব কিনা। এই প্রকার ভিন্ন ভিন্ন উপায়ের অনুসরণে সত্য-নির্ণয় করিতে হইবে। ২

১ যজুষ্ ১২ চিরকু ১২ মলিনঃ স্বল্পকালিকম্।

ভগ্নঃ শিষ্টাক্ষরযুতং লেখ্যং কূটত্বমাপ্নোতঃ ॥

স্থানপ্রত্যাহস্তিকৃতাঃ সন্দিগ্ধা লক্ষণচ্যুতাঃ।

যত্রৈবং স্মৃতা বর্ণা লেখ্যং দুষ্টং তদা ভৃগুঃ ॥

বৃহস্পতি-বচনম্।

সন্দিগ্ধে লেখ্যভুবিঃ শ্রীঃ স্বহস্তলিখিতাদিভিঃ।

যুক্তি-প্রাপ্তি-ক্রিয়াচিহ্ন-সম্বন্ধাগম-হেতুভিঃ ॥

যাক্সবল্য্য: ৩অ: ৯৪।



এই উপায়ে চুক্তি পত্র, দান পত্র, ত্যাগ পত্র ( ছাড় সনন্দ ) এবং সম্মতি পত্রেরও ব্যবস্থা হইবে ।

ইংরাজী আইনের ৪৭ ও ৭৩ ধারায় স্বাক্ষর মিলাইবার প্রণালীর সহিত ইহার সামঞ্জস্য আছে এবং ৯১ ও ৯২ ধারা মতে লেখ্যের বিপক্ষে মোখিক সাক্ষ্য অপ্রমাণ । মূল দলীলই প্রমাণ হইবে ।

দূরদেশে থাকা প্রভৃতি কারণে যে লেখ্যের ব্যবহার্যতা-বিষয়ে বলা হইয়াছে সে সম্বন্ধে ব্যবহারমতৃকাগ্রেণ্ডে যে সূক্ষ্ম আলোচনা আছে, তাহা এখানে প্রসঙ্গাধীন বলিয়া উল্লেখ করা যাইতে পারে ।

তাহা এই—দূরদেশস্থিত ঋণ পত্র আসিলে দেখা গেল যে, অভিযোক্তার অভিযোগ সত্যই বটে কিন্তু অঙ্কটি নষ্ট হইয়া গিয়াছে । তখন অঙ্ক বিষয়ে বিশ্বাসযোগ্য সাক্ষ্য প্রমাণ পাইলে ঐ অঙ্কহীন পত্রই বলবৎ হইবে ।

এরূপ ঋণ পত্র বিচারকের গোচরীভূত হইলে প্রতিবাদী যদি বলে, “হ্যাঁ আমি পত্র দিয়াছিলাম সত্য, কিন্তু পত্র-নির্দিষ্ট ধনাদির আদান-প্রদান ঘটে নাই, প্রমাদবশতঃ আমার পার্শ্বেই পড়িয়াছিল । পরে মনে পড়ায় খুঁজিয়া পাই নাই আমি ছিঁড়িতে ভুলিয়া গিয়াছিলাম । এক্ষণে এই পত্রের বিশুদ্ধি পত্র দেখাইতেছি ।” এই বলিয়া বিশুদ্ধি পত্র দেখাইলে এবং ঐ বিশুদ্ধি পত্রের আগম-সম্বন্ধে এইরূপ বলে যে, “বাদীর পিতা ঐ পত্র পাইয়া তুলিয়া রাখেন, পরে খুঁজিয়া পান নাই । তিনি জানিতেন এই পত্রানুসারে ধন ব্যবহার হয় নাই । ঐ পত্র কার্যসাধক নহে । তিনিই সময়ান্তরে আমাকে এই বিশুদ্ধি পত্র দিয়াছেন এবং ঐ অকৃত-ব্যবহার পত্রখানি বাদী পরে স্বয়ং পাইয়া এই কুট ব্যবহার আনিয়াছে ।” তখন বাদীর উত্তরে হস্তাক্ষর, কাল, দেশ, পাত্র, সম্বন্ধ, যুক্তি প্রভৃতির অনুসরণে বিশুদ্ধি পত্রকেই প্রমাণরূপে লইয়া ব্যবহার-কার্য সাধিত হইবে ।

ইংরাজী আইনের ৬৭ ধারা মতেও এই প্রকার নিয়ম অবলম্বন করিবার উপদেশ আছে ।

(১) যে লেখ্যের সাক্ষী লেখক এবং ঋণী ও ধনী মরিয়া গিয়াছে ।

সে লেখা নিষ্ফল যদি তাহাতে কোন বন্ধকী দ্রব্যের উল্লেখ থাকে তবেই প্রমাণ ।<sup>১</sup>

### বন্ধকী ঋণের কথা

“আধি” ( অর্থাৎ বন্ধক রাখা বস্তু ) দুই প্রকার—ভোগ্য ও গোপ্য ।

ইহা•স্বাবর ( অর্থাৎ ভূমি, বাগান, পুষ্করিণী প্রভৃতি ) হইলে “ভোগ্য আধি” বলিয়া নির্দিষ্ট । আর ( বস্ত্র, গলঙ্কারাদি ) অস্বাবর হইলে ইহাকে “গোপ্য আধি” বলে ।

স্বাবর কি অস্বাবর আধি রাখা হইল তাহা লিপিতে বিশেষ পরিস্ফুট থাকিবে এবং যে ভাবে, যতদিনের জন্য, রাখা হইল তাহাও লিপিবদ্ধা ব্যক্ত থাকিবে । ঐ লেখ্যটী আবার যদি কাল-দেশের বিরোধী না হয় ও উহার অক্ষর লুপ্ত না হইয়া থাকে তবেই প্রমাণ হইবে ।<sup>২</sup>

রাজশাসনের ন্যায় ঋণপত্রাদির লেখা সাধুভাষায় করিবার আবশ্যকতা নাই ।

ভোগ্য বন্ধকী দ্রব্যে উত্তমর্গকে যেরূপ ভোগের কাল ও যেরূপ বিধানে ভোগের স্বত্ব তাহা দেওয়া থাকিবে । যাবৎ ঋণ শোধ না হয় তাবৎ-কাল উত্তমর্গ তাহা সেই ভাবেই ভোগ করিয়া যাইবেন ।

ভূম্যাদি বন্ধকী দ্রব্য উত্তমর্গকে ভোগস্বত্ব দিয়া লেখ্য হইয়াছে কিন্তু উত্তমর্গ যদি সাক্ষীদের জীবনসম্বন্ধে তাহা ভোগ না করিয়া থাকেন তবে তাহা আর

মৃত্যুঃ স্ম্যঃ সাক্ষিণো যত্র ধনিকর্নিকলেখকাঃ ।

তদপ্যপার্বং বিজ্ঞেয়ং ন চেদাধিঃ প্রতিশ্রয়ঃ ॥

নারদ-বচনম্ ।

দেশকালাহবিরুদ্ধং যৎ ব্যক্তাধিবিধিলক্ষণম্ ।

তৎ প্রমাণং স্মৃতং লেখ্যমবিলুপ্তক্রমাক্ষরম্ ॥

নারদস্মৃতিঃ ৩অঃ ৭৬ ।

বন্ধকী দ্রব্য বলিয়া গণ্য হইবে না। অধমর্গই তাহা পূর্বাপর ভোগ করিবেন।<sup>১</sup>

ঋণ বিষয়ে সাক্ষিমৎ লেখ্য প্রমাণ বিশুদ্ধভাবে উপস্থাপিত হইলে পিতৃঋণ পুত্র, এমন কি পিতামহের ঋণ পৌত্র পর্য্যন্ত পরিশোধ করিবার নিমিত্ত দায়ী হন। ইহাতে পৌত্রের পর্য্যন্ত দায়িত্ব নির্দেশ আছে।<sup>২</sup>

কিন্তু বন্ধকী ঋণ চারি পাঁচ পুরুষ পর্য্যন্ত অধমর্গের বংশধরগণ উত্তমর্গের বংশধরদিগকে দিতে বাধ্য থাকেন। তবে যে পর্য্যন্ত ঋণশোধ না হয়, সে পর্য্যন্ত উত্তমর্গ বা তদীয় বংশধরেরা বন্ধকী দ্রব্য ভোগ করিয়া যাইবেন।

যদি “ঋণপত্র আমি করি নাই, উত্তমর্গ জাল করিয়াছে” প্রতিবাদী এই কথা বলিয়া উপস্থাপিত আপত্তির খণ্ডন করে, তখন বিচারক বাদীর কথার সত্যতা নির্ণয়ের জন্য যুক্তি, চিহ্ন, হস্তাক্ষর ও সাক্ষী প্রমাণ প্রভৃতির আশ্রয় লইবেন। যদি তাহাতেও সত্যাবিস্কার দৃঘট হইয়া উঠে, অগত্যা তথায় দিব্য প্রমাণই আশ্রয় করিতে হইবে।<sup>৩</sup>

যেখানে গোপনে আধি প্রভৃতি স্থাপিত হইয়াছে, পরে সে বিষয়ে যদি বিসংবাদ ঘটে সেখানেও উভয়ের সংশোধনের জন্য দিব্য প্রমাণের আশ্রয় লইতে হইবে।<sup>৪</sup>

### ইতি লেখ্যপ্রকরণ।

- ১ বিদ্যমানেহপি লিখিতে বিদ্যমানেষু সাক্ষিষু ।  
বিশেষতঃ স্থাবরাণাং যন্ন ভুক্তং ন তৎ স্থিরম্ ॥  
নারদ-স্মৃতিঃ ৩অঃ ৭৭ ।
- ২ ঋণমাত্মীয়বৎ পিত্র্যং পুত্রৈর্দেয়ং বিভাবিতম্ ।  
পৈতামহং সমং দেয়ম্ দেয়ং তৎসুতস্ত চ ॥  
বাস্তবব্যবচনম্ ।
- ৩ ন মঠৈতৎ কৃতং পত্রং কূটমেতেন কারিতম্ ।  
অধরীকৃত্য তৎপত্রমথ দিব্যেন নির্ণয়ঃ ॥  
হারীতবচনম্ ।
- ৪ রহোদন্তে নির্ধৌ যত্র বিসংবাদঃ প্রজায়তে ।  
বিভাবকং তত্র দিব্যমুভয়োরপি তৎ স্মৃতম্ ॥  
বৃহস্পতিবচনম্ ।

## তৃতীয় মানুষ প্রমাণ

### ভোগ

তিনটি মানুষ প্রমাণের মধ্যে ভোগ ( অর্থাৎ দখল ) অন্যতম প্রমাণ ।

এই প্রমাণটি সাক্ষী ও লেখ্য অপেক্ষা বলবান ।<sup>১</sup> কারণ, লেখ্য রহিয়াছে সাক্ষীও আছে অথচ স্বাবর সম্পত্তি অন্য লোকে ভোগ করিতেছে,—এক্ষেত্রে ধনস্বামীর ঐ লেখ্য ও সাক্ষী অপ্রমাণ । ভোক্তার অন্তের অবাধে শাস্ত্রোক্ত সময়ব্যাপী ভোগই স্বত্বের প্রমাণ হইবে । বিশেষতঃ স্বাবর ধনের ভোগ না হইলে তাহাতে স্বত্ব থাকে না ।<sup>২</sup>

বিশেষতঃ লেখ্যে বহু ছিদ্র বাহির হইয়া থাকে । বহু অনুসন্ধান ও বহু যুক্তির সাহায্যেই লেখ্য প্রমাণ করিতে হয় এবং ঐরূপ সাক্ষীও নশ্বর এবং গুণাগুণবিচারসহ । সুতরাং ভোগেরই বলবত্তা প্রমাণিত হওয়ায় ভোগ অন্য প্রমাণ অপেক্ষা নির্বিবাদে অর্থসাধক হয় ।

তবে ভোগের প্রামাণ্য কালসাপেক্ষ । বিশেষতঃ পুরুষপরম্পরাক্রমে যে ভোগ হইয়া আসিতেছে তথায় ক্রয়পত্র বা দানপত্রকে ভোগ দুর্বল করিয়া রাখায় উহা প্রমাণ-মধ্যে গণ্য হইতে পারে না এবং যথায় কিছুমাত্র ভোগ নাই তথায় আগমও বিফল ।<sup>৩</sup>

তবে পুরুষপরম্পরাগত ভোগ ভিন্ন অন্যস্থলে ভোগ ক্রয়পত্রাদি আগমকে অপেক্ষা করে ; অর্থাৎ যে ভোগ স্মরণাতীত কাল হইতে চলিয়া আসিতেছে, তাহা আগমের অপেক্ষা না রাখিয়াই প্রমাণ হইবে, কিন্তু যে ভোগ

<sup>১</sup> ত্রিবিধস্তাস্থ দুইশ্চ প্রমাণস্ত যথাক্রমম্ ।

পূর্বং পূর্বতঃ পুরু জ্ঞেয়ং, ভুক্তিস্তেভ্যো গরীয়সী ॥

নারদ-স্মৃতি: ৩৯: ৭৬ ।

<sup>২</sup> বিদ্যমানেষপি লিখিতে জীবৎসপি চ সাক্ষিযু ।

বিশেষতঃ স্বাবরাণাং যন্ন ভুক্তং ন তৎ স্থিরম্ ॥ নারদস্মৃতি: ৭৭ ।

<sup>৩</sup> আগমোহপি বলং নৈব ভুক্তিঃ স্তোত্রাপি যত্র নো ।

শুক্লনৈতি: ৪২০ পৃ: ।

অল্পকাল-ব্যাপক তাহা আগমকে অপেক্ষা না করিয়া প্রমাণ হয় না। যে স্থানে কিছুমাত্র ভোগ নাই তথায় আগমই কারণ হইবে।<sup>১</sup>

আগমের বিশুদ্ধিও দেখা চাই। কারণ অশুদ্ধ আগম ভোগসাধক হইতে পারে না, প্রত্যুত উহা অপহৃত বস্তুর ভোগের ন্যায় দোষজনক হইয়াই থাকে।

কেবল অল্পকাল ভোগ দেখা যাইলেও যদি ভোগসাধক ক্রয়পত্রাদি থাকে, তবে সেই ভোগকারীকে পরস্বত্বাপহারী চোর বলা যায় না। তাহার ভোগ শাস্ত্র-মীমাংসিত, সূতরাং রাজবিচারে সে ভোগ হইতে বিচ্যুত হইবে না; এবং যে স্থলে স্মরণাতীত কাল হইতে ভোগ হইতেছে, যদি লেখ্যও না থাকে তথাপি ঐ স্থলে ত্রৈপুরুষিক ভোগই প্রমাণ হইবে।<sup>২</sup>

### বিশুদ্ধ ভোগ

(১) যাহার সম্বন্ধে লিখিতক্রয়পত্র বা দানপত্র অথবা রাজশাসন রূপ নির্ণায়ক পত্র আছে; (২) যে বস্তুর বহুদিন ভোগ চলিয়া আসিতেছে; (৩) কখনও ভোগবিচ্ছেদ হয় নাই; (৪) কখন কাহারও তাহাতে আপত্তি উঠে নাই; এবং (৫) ঐ ভোগ প্রতিবাদীর সম্মুখেই হইয়া আসিতেছে, প্রতিবাদী কখনও প্রতিবাদ করে নাই।

এই পাঁচ প্রকার বৈশিষ্ট্যযুক্ত ভোগই বিশুদ্ধ ভোগ; এবং এইরূপ ভোগই বলবৎ প্রমাণ হইবে।<sup>৩</sup>

<sup>১</sup> আগমো হৃদিকে ভোগাৎ বিনা পূর্বক্রমাগতাৎ।

আগমঃ কারণং তত্র ভুক্তিঃ স্তোকাপি যত্র নো<sup>১</sup> ॥ যাজ্ঞবল্ক্যঃ ৩ অঃ।

<sup>২</sup> স্মার্ত্তে কালে ক্রিয়া ভুক্তেঃ সাগমা ভুক্তিরিষ্টাতে।

অস্মার্ত্তে লিখিতভাবে ক্রমাৎ ত্রিপুরুষাগতা ॥ নারদস্মৃতিঃ ৩অঃ।

এটা রঘুনন্দনের গ্রন্থে কাত্যায়নবচন বলিয়া উল্লেখ আছে।

<sup>৩</sup> সাগমো দীর্ঘকালশ্চাবিচ্ছেদোহ্যাবরোজিতঃ।

প্রত্যর্থসন্নিধানঞ্চ পরিভোগোহপি পঞ্চমা ॥ ব্যবহারমাতৃকা ৪৮ পৃঃ।

স্বত্বানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৫৩

ইংরাজী স্বত্বলোপকর (Limitation Act) আইনের ২৬ ও ২৭ ধারার সহিত এই প্রাচীন ভারতীয় আইনটির সামঞ্জস্য আছে।

যুক্তি অপেক্ষা সাক্ষী, সাক্ষী অপেক্ষা লিপি, এবং লিপি অপেক্ষা প্রতিবাদ-শূন্য ত্রৈপুরুষিক ভোগই বলবৎ প্রমাণ। তাহা যে বিশুদ্ধ ভোগ এই পরিচয় বাক্যেই প্রমাণিত হইতেছে।<sup>১</sup>

### কালবিশেষে দ্রব্যবিশেষের ভোগ স্বত্ব

নিজের সাক্ষাতেই অপরে ( অর্থাৎ জ্ঞাতি ভিন্ন ব্যক্তি ) যদি কাহারও গো, মহিম, বস্ত্র, অলঙ্কার প্রভৃতি অস্থাবর ধন ভোগ করে, তবে তাহাতে পূর্বস্বামীর স্বত্বনাশ হয়।

স্থাবর সম্পত্তি, ভূমি ইত্যাদি যদি বিংশতি বর্ষকাল ভোগ হয় তাহা হইলে ভূস্বামীর স্বত্বনাশ হয়।<sup>২</sup>

মনু প্রভৃতি মহর্ষিগণ সকলেই একবাক্যে এই কথাই বলিয়াছেন।

সম্মুখে ধনস্বামী থাকিলেও প্রণয়াদি ব্যতীত অন্য কোনও সূত্রে কেহ যদি অস্থাবর সম্পত্তি দশ বর্ষ ভোগ করে এবং স্থাবর সম্পত্তি বিংশতি বর্ষ ভোগ করে এবং তাহাতে ধনস্বামীর কোন আপত্তি না থাকে, তবে সে সম্পত্তিতে পূর্ব স্বামীর স্বত্বলোপ হইবে স্তত্রাং সে ব্যক্তি ঐ বস্তু পাইবে না।<sup>৩</sup>

যদি ঐ কাল-মধ্যে প্রতিবাদ হইয়াছে কিন্তু ঐ প্রতিবাদ নিরাকৃত হয় নাই

১ অমুমানাধরঃ সাক্ষী, সাক্ষিভ্যো লিখিতং গুরু।

অব্যাহতা ত্রিপুরুষী ভুক্তিস্তেভ্যো গরীয়সী ॥

ব্যবহারতত্ত্বে বৃহস্পতিবচনম্।

২ পশুতো ক্রবতো হানিভূমৈবিংশতিবার্ষিকী।

পরেণ ভূজ্যমানায়া, ধনস্ত দশবার্ষিকী ॥

যাজ্ঞবল্ক্যঃ ৩অঃ ২৪।

যৎকিঞ্চিদশ বর্ষাণি সন্নিধৌ প্রেক্ষতে ধনী।

ভূজ্যমানং পরৈস্তৃক্ষীং ন স তল্লবুর্মহতি ॥

মনু-নারদৌ।

ইহা প্রমাণিত হয় তাহা হইলে ভোক্তার স্বত্ব থাকিবে না ; কেবল ভোক্তা যে গবাদির দুগ্ধ বা ভূম্যাদির শস্য ভোগ করিয়াছে কিংবা বস্ত্রালঙ্কারাদি ব্যবহার করিয়াছে, সেই শস্যাদি-প্রত্যর্পণ বা বস্ত্রালঙ্কারাদি-ব্যবহার-জন্ত ক্ষতিপূরণ ভোক্তাকে করিতে হইবে না, ইহাই ভোক্তার প্রতি অনুগ্রহ মাত্র ।

তবেই প্রতিবাদে বিনা বলপ্রয়োগে ভোগে ভোক্তারই স্বত্বোদয় হইবে । ১

( ইহা পরিশিষ্টে বিশেষভাবে বিবৃত হইবে । )

### কালবিশেষকৃত ভোগ প্রমাণের সাহায্যে স্বত্বাবধারণ

পূর্বের স্মার্ত্ত ( অর্থাৎ স্মরণীয় ) কালের উল্লেখ করিয়া ভোগকে দুর্বল বলা হইয়াছে এবং “শতায়ুর্বে পুরুষঃ” ( অর্থাৎ মানুষ একশতবর্ষ বাঁচিয়া থাকে ) এই ঋতিপ্রমাণ অনুসারে মানুষের ঐ শতবর্ষপরিমিত আয়ুষ্কালই স্মরণীয় বলিয়া নির্দেশ আছে । কিন্তু স্থূলতঃ শতবর্ষে স্মরণীয়কাল বুঝা যাইলেও, আপ্তজনদিগের বাক্যের তাৎপর্য্য সুমীমাংসিত হইয়া এইরূপ স্থির হইয়া আছে যে—

তিন পুরুষের ভোগকালই স্মরণীয়কাল রূপে গণ্য, নচেৎ নানা ঋষি-বাক্যের সূসামঞ্জস্য হয় না ।

যাঁহার পিতা ও পিতামহ ভোগ করিয়াছিলেন, এবং যিনি নিজেও ভোগ করিতেছেন, তাঁহার পক্ষে ত্রৈপুরুষিক ভোগ এবং ঐ ভোগ বলবৎ প্রমাণ । ২ এই তিন পুরুষের ভোগকাল প্রতিপুরুষে বিংশতি বর্ষ করিয়া ধরা আছে ; সুতরাং স্মরণীয়কাল রূপে ত্রৈপুরুষিক ভোগকে ষাট বৎসরে সংক্ষিপ্ত করা হইয়াছে ।

যদি পর পর তিনজনের ভোগকালকে স্মার্ত্তকাল ধরা হয়, তবে বড়ই বিরোধ উপস্থিত হয় ; কারণ যথায় একবর্ষের মধ্যে তিন পুরুষের ভোগ, অথবা

১ যন্ত ভুক্তির্ভবেত্তন্ত বলাৎকারকৃতং বিনা । বিবাদ-রত্নাকরে বিষ্ণুবচনম্ ।

২ প্রপিতামহেন যদ্ ভুক্তং তৎপুত্রেন বিনা চ তম্ ।

তো বিনা যন্ত পিতা চ ভোগন্তন্ত ত্রিপৌরুষঃ ॥

স্বতন্ত্রমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৫৫

অন্যত্র ৭০ বা ৮০ বর্ষ করিয়া প্রত্যেক পুরুষের ভোগ, উভয় স্থলেই ভিন্ন ব্যবস্থায় উপনীত হইতে হয়; সিদ্ধান্ত দুইই দাঁড়ায়। স্মরণ্য ত্রৈপুরুষিক ভোগ অর্থে ৬০ বর্ষ কালই ধরিয়া লইতে হইবে—ইহাই সিদ্ধান্তিত। এ বিষয় পরে বিবৃত হইবে।

এই ত্রৈপুরুষিক ভোগ যদি অবিচ্ছেদে ঘটিয়া থাকে, তবে ভোক্তার স্বত্ব কোন মতেই নষ্ট হয় না। তাহাতে আগম না থাকিলেও হইবে।<sup>১</sup>

আরও একটা কথা—মূল ধনী হইতে ক্রমান্বয়ে ছয় পুরুষ চিরপ্রবাসে থাকার পর সপ্তম পুরুষ যদি প্রত্যাবৃত্ত হন, তখনও তাঁহার উচিত স্বত্ব বিলুপ্ত হইবে না। তখন সপিণ্ডের ভোগস্বত্ব নিতান্তই দুর্বল হইবে। কারণ জ্ঞাতিজনের ভিতর ভোগে অংশীর স্বত্বলোপ হয় না।<sup>২</sup>

যদি বন্ধকী দ্রব্য বা গ্ৰাস-দ্রব্য (গচ্ছিত বস্তু) ধনগর্ভ পেটরাদি হয়, অথবা (ষোড়শ বর্ষ বয়সের নূনবয়স্ক) বালকের, স্ত্রীলোকের, শ্রোত্রিয়ের বা রাজার ধন হয়, তাহা হইলে বহু বৎসর ভোগেও ভোক্তার স্বত্ব হইবে না। এই বৈশিষ্ট্য প্রাচীন ভারতীয় আইনে লক্ষিত হয়।<sup>৩</sup>

<sup>১</sup> অগ্রায়েনাপি যদুত্তং পিত্রা পূর্বতরৈস্ত্রিভিঃ।

ন তচ্ছক্যমপাকর্তুং ক্রমাৎ ত্রিপুরুষাগতম্ ॥

নারদস্মৃতিঃ।

<sup>২</sup> গোত্রসাধারণং ত্যক্ত্বা যোহনৃদেশং সমাপ্রিভিঃ।

তৎসংশ্রাগতশ্র্যাংশঃ প্রদাতব্যো ন সংশয়ঃ ॥

তৃতীয়াঃ পঞ্চমশ্চাপি সপ্তমশ্চৈব যো ভবেৎ।

জন্মানাম-পরিজ্ঞানে লভেতাংশং ক্রমাগতম্ ॥

বৃহস্পতিবচনম্।

<sup>৩</sup> আধিঃ সীমা বালধনং নিক্ষেপোপনিধিঃ স্ত্রিয়ঃ।

রাজস্বং শ্রোত্রিয়স্বঞ্চ ন ভোগেন প্রণশ্চতি ॥

মহুঃ ৮ অঃ ১৪৯।

আধিঃ সীমোপনিক্ষেপজড়বালধনৈর্বিদা।

তথোপনিধি-রাজ-স্ত্রী-শ্রোত্রিয়াণাং ধনৈরিহ ॥

যাজ্ঞবল্ক্যঃ ৩ অঃ।



এ বিষয়ে তর্ক উঠে যে, ভোগ যে ভোক্তার পক্ষে স্বত্বজনক ইহা কোথায়ও কেহ বলেন নাই; এবং ঐরূপ, প্রকৃত দ্রব্যস্বামীর পক্ষ হইতে, তাঁহার অননুমোদিত ভোক্তাকে প্রতিবাদ না করাকে (দানবিক্রয়াদির মত) প্রকৃত স্বামীর স্বত্বনাশকরূপেও কেহই কোথায়ও নির্দেশ করেন নাই। সুতরাং ভোগ স্বত্বজনক এবং অনাপত্তি স্বত্বনাশক, একথা কিরূপে সম্ভব হইতেছে?

কারণ, ভোগ হইল প্রমাণ আর স্বত্ব হইল প্রমেয়। প্রমাণ কিরূপে প্রমেয়কে জন্মাইয়া দিতে পারে?

এই তর্কের সমাধানকল্পে বিজ্ঞানেশ্বরের সামান্য ঈঙ্গিতে স্থির করা যায় যে, তত্তৎকালব্যাপী ভোগে ভুক্ত বস্তুতে পূর্বস্বামীর স্বত্ব-হানি হইবে না, মাত্র বাচনিক ফলহানি ঘটিবে। কারণ, ঐ নির্দিষ্ট কালের পরও আগমের সাহায্য থাকিলে ভোক্তার ভোগাধীন স্বত্ব বিদূরিত হইতে পারিবে।

বস্তুতঃ ভোগ স্বত্বজনক বা অপ্রতিবাদ স্বত্বনাশকরূপে গণিত না হইলেও এক্ষেত্রে আপ্তজনের বচনের প্রভাবেই সংঘটিত হইয়া আসিতেছে।

কারণ, ঋষিদিগের আজ্ঞাবাক্য সর্ব্বাপেক্ষা বলবান্। সুতরাং তাহা সর্ব্বাপবাদক হইবে ইহা আর আশ্চর্য্য কি!

আর একটা কথা—যেখানে কোন বস্তু দুইজন উত্তমর্ণের নিকট একই সময়ে বন্ধকী করা হইয়াছে, সেখানে দুই উত্তমর্ণের মধ্যে যিনি তাহা প্রথমে ভোগ করিতে থাকিবেন তাঁহারই স্বত্ব ঘটিবে।<sup>১</sup>

### পরোক্ষ ভোগ

আগমশব্দের অর্থ হইতেছে বিশুদ্ধ ক্রয়বিক্রয়াদানাদির পত্র।

যদি আগমবিহীন হইয়া তিনপুরুষ, দ্রব্যস্বামীর সমক্ষে ভোগ হয়, তাহাতে ভোক্তারই স্বত্ব জন্মিবে।<sup>২</sup> কিন্তু আগমবিহীন হইয়া অসমক্ষে ভোগ

<sup>১</sup> ক্ষেত্রমেকং হৃদ্যোর্বক্ষে দত্তং যৎ সমকালিকম্।

যেন ভুক্তং ভবেৎ পূর্ব্বং তত্ত তৎ সিদ্ধিমাণুয়াৎ ॥

বিবাদরত্নাকরে বৃহস্পতিঃ।

<sup>২</sup> সম্ভোগো দৃশ্যতে যত্র ন দৃশ্যেতাগমঃ কচিৎ।

আগমঃ কারণং তত্র ন সম্ভোগ ইতি স্থিতিঃ ॥

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৫৭

ভোক্তার স্বত্বজনক নহে। তবে ইহাই স্থির যে ৬০ বর্ষ পর্য্যন্ত ভোগে আগম চাই, আর স্মরণাতীত কাল ধরিয়া ভোগস্থলে আগম না থাকিলেও স্বত্ব অব্যাহত থাকে।

পূর্ববিচারিত সিদ্ধান্তে তিন পুরুষ ভোগকালকে অস্মার্ত্তকাল বলা হইয়াছে এবং ঐ অস্মার্ত্তকালও ষাট বৎসরে সঙ্কোচিত করা হইয়াছে। যুক্তি-বলে তাহাই অবধারিত আছে।

এখানে এই আপত্তি উঠিতে পারে যে, স্মরণ-যোগ্য কালেও যদি ভোগ আগমকে অপেক্ষা করিয়াই প্রমাণ হয় এবং আগমও যদি প্রমাণান্তরে বিশুদ্ধ না হইলে প্রমাণ-মধ্যে গণ্য না হয় তাহা হইলে দেখা যায় যে আগমেই স্বত্ব অবধারিত হইতেছে ; সুতরাং ভোগস্থলে আগমের প্রামাণ্য স্বীকার করিবার প্রয়োজন কি ? আগমই ভোগের স্থানে স্বাধীন প্রমাণ হউক না কেন ?

আগম যদি প্রমাণান্তরে বিশুদ্ধ না হয়, তাহা হইলে আগমবিশিষ্ট ভোগই বা কোথায় প্রমাণ হইবে ?

ইহার উত্তরে বলা যায় যে,—

প্রমাণান্তরে অবগত আগমের সহিত নিশ্চিহ্ন ভোগই কালান্তরে স্বত্ব সম্পাদনের সহায় কিন্তু আগমকে সচুপায়ে বিশুদ্ধ বুঝিলেও উহা যদি ভোগবিহীন হয় তবে কিরূপে স্বাধীন আগম স্বত্বসম্পাদনের সহায় হইতে পারে এবং মধ্যে দান-বিক্রয়াদিরও সম্ভাবনা করা যাইতে পারে ?

এক্ষণে ইহাই স্থির হইল যে,—

যেমন জ্ঞাতিভিন্ন ব্যক্তি যদি ভূস্বামীর সমক্ষেও বিনা আপত্তিতে, ২০ বৎসর ধরিয়া ভূমিভোগ করে, তাহাতে ভোক্তার ভোগাধীন স্বত্ব সিদ্ধ হয়, তেমনি অসমক্ষে আগমশূন্য ( অর্থাৎ ক্রয়-দানাদি-পত্র রহিত ) অবস্থায় জ্ঞাতিভিন্ন অপরের ভোগও, তিন পুরুষ ধরিয়া হইয়া আসিলে, ভোক্তার স্বত্ব ভোগাধীন বলিয়া সিদ্ধ হয়। তিন পুরুষ ভোগের পর, আগমপ্রমাণের অপেক্ষা নাই।<sup>১</sup> ইহাই হইল—“অস্মার্ত্তকালীন” ভোগ। তবে, জ্ঞাতিরা

<sup>১</sup> স্মার্ত্তকালে ক্রিয়া ভূমে: সাগমা ভুক্তিরিহতে।

অস্মার্ত্তেহুগমাভাবাৎ ক্রমাৎ ত্রিপুরুষাগতা ॥

(অর্থাৎ অংশীদারেরা) যদি একরূপ ভোগ করিতে থাকেন, তাহাতে পূর্ব-স্বামীর স্বত্বনাশ ঘটে না। এই ক্ষেত্রে ভুজ্যমান দ্রব্য ফিরাইয়া না দিলে, ভোক্তা জ্ঞাতি রাজদণ্ডে দণ্ডিত হইবেন।

এখানে একটী আপত্তি উঠে।—

ধর্ম্মানুসৃত শাস্ত্রে পাইতেছি যে, ত্রৈপুরুষিক ভোগ হইলে স্বত্ব ঘটে।<sup>১</sup> সেই স্থলেই আবার দেখা যাইতেছে যে বিনা প্রমাণে বহুকাল ভোগ করিলেও রাজা তাহাকে চোরের দণ্ড দিবেন। এই দণ্ডবিধায়ক অর্থশাস্ত্র ধর্ম্মশাস্ত্রের বিরোধী হইতেছে।<sup>২</sup> এ বিরোধের কোন্ সমাধান যুক্তিযুক্ত?

এই আপত্তির খণ্ডনার্থে, আপ্তজনেরাই সন্তোষজনক উত্তর দিয়াছেন যে, “দণ্ডবিধায়ক অর্থশাস্ত্রকে স্ত্রীধন বা রাজধনাদিবিষয়ে, ব্যবস্থাপিত করিয়া, সঙ্কুচিত করিলে, কোন প্রকার অসামঞ্জস্য থাকে না।”

### একমাত্র ভোগই প্রমাণ ও অপ্রমাণ

গৃহাদিতে প্রবেশ করিবার দ্বার, গমনাগমনের পথ, জল যাইবার পথ (নালা, ড্রেন) প্রভৃতিতে ভোগই একমাত্র প্রমাণ। বাদীর পক্ষে, আগম বা সাক্ষী থাকিলেও, ভোক্তার ব্যবহারকেই বলবৎ করা হইবে।<sup>৩</sup>

১ অনাগমস্ত যো ভুঙ্ক্তে বহুতদশতাত্তপি ।

ন তচ্ছক্যমপাকর্তুং ক্রমাৎ ত্রিপুরুষাগতম্ ॥

নারদ-স্মৃতিঃ ৩ অঃ ।

২ অনাগমস্ত যো ভুঙ্ক্তে বহুতদশতাত্তপি ।

চোরদণ্ডেন তং পাপং দণ্ডয়েৎ পৃথিবীপতিঃ ॥

নারদ-স্মৃতিঃ ৩ অঃ ।

৩ দ্বারমার্গ-ক্রিয়াভোগ-জলবাহনাদিষু ক্রিয়া ।

ভুক্তিরেব তু গুৰ্বী শ্রান্ন দিব্যং ন চ সাক্ষিণঃ ॥

নারদঃ ৩ অঃ

স্বতন্ত্রমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৫৯

যাহা ত্রৈপুরুষিক ভোগে স্বত্ব বলা হইয়াছে, তাহা সপিণ্ড বা সকুলাদিগের কৃত ভোগে নহে। উহা তদিতর অগ্ন্যসাধারণ জনকৃত ভোগস্থলে প্রযুক্ত। কারণ সপিণ্ডাদি স্থলে মূল ধনীর সপ্তম পুরুষ পর্য্যন্ত ব্যক্তি যদি বিদেশে থাকিয়া পরে আসেন তথাপিও অংশীসপিণ্ডেরা তাহার অংশ বুঝাইয়া দিবেন।’ ( ইহা পরিশিষ্টে বিশদ করা হইবে। )

### ক্ষেত্রবিশেষে প্রমাণবিশেষের বলাবল নিরূপণ

প্রথমে, যে ব্যক্তি ভোগ করিতেছে, তাহাকে দেখাইতে হইবে যে সেই ভূমি বা বস্তুতে, স্ব স্বত্বপ্রতিপাদনের অনুকূল লেখ্য ( দান, ক্রয় বা পৌরুষিক ভোগানুকূল পত্র ) আছে। তাহাও আবার, সাক্ষিপ্রমাণে বিশুদ্ধ করাইতে হইবে। সুতরাং, এখানে ভোগ অপেক্ষা আগম বলবান্। এটি পূর্বপুরুষাগত ভোগের ইতর ভোগস্থলেই প্রযুক্ত হইবে।

কারণ, পূর্বপুরুষ ক্রমাগত ভোগস্থলে, তদানীন্তন ভোক্তা চতুর্থ পুরুষের পক্ষে আগম দুর্বল, ভোগই বলবান্। প্রথম ভোক্তার আগম দেখান চাই। তাহার পুত্র বা পৌত্রেরা, ভোগ দেখাইলেই স্বত্ববান্ হইবে। কিন্তু যদি অভিযোক্তা ( অর্থাৎ আপত্তিকারী ) নিজের অনুকূলে লিপি দেখায়, তখন ঐ পুত্রপৌত্রেরাও আগম দেখাইতে না পারিলে, স্বত্বহীন হইবে। কারণ,

ভুক্তিষ্টপুরুষিকী সিধ্যদপরেযাং ন সংশয়ঃ ।

অনিবৃত্তে সপিণ্ডেষু সকুল্যানাং ন সিধ্যতি ॥

অস্বামিনা চ বহুকৃতং গৃহক্ষেত্রাপণাদিকম্ ।

স্বহৃদ্বৃদ্ধসকুল্যস্ত ন তত্তোগেন হীয়তে ॥

বিবাহ-শ্রোত্রিরৈভুক্তং রাজ্যমাত্যন্তত্বে চ ।

স্বদীর্ঘেণাপি কালেন তেষাং তত্ত্ব ন সিধ্যতি ॥

বৃহস্পতিবচনম্ ( ব্যবহারতত্ত্বতম্ ) ।

তখন আগমের নিকটে ভোগ দুর্বল হইল।<sup>১</sup> চতুর্থ পুরুষকে ত্রৈপুরুষিক ভোগ ভিন্ন আর কোন প্রমাণ দেখাইতে হইবে না ; এবং যেখানে ক্রয়ের বা প্রতিগ্রহের লেখা আছে কিন্তু কিছুমাত্র ভোগ হয় নাই, তথায় ঐ আগম পত্রাদি দুর্বল প্রমাণ, স্মৃতরাং আগম পত্রের সঙ্গে বর্তমান ভোগই স্বত্ব প্রমাণের নিমিত্ত অপেক্ষণীয়।<sup>২</sup>

### ক্ষেত্রবিশেষে ভোগ অপ্রমাণ

যেখানে প্রথম সংগ্রহকর্তা অভিযুক্ত হইয়া ছিলেন অথচ আগম (ক্রয়পত্রাদি) দেখাইতে না পারিয়া মরিয়া গিয়াছেন, তথায় তাঁহার পুত্র ঐ বস্তুর আগম দেখাইতে বাধ্য।

ঐ বস্তুতে নিজের ভোগ সাক্ষিপ্রমাণে প্রমাণিত করিলেও, আগম দেখাইতে না পারিলে, ঐ বস্তু তাঁহার স্বত্ব হইতে বিচ্যুত হইবে।<sup>৩</sup>

যে সকল প্রমাণের কথা বলা হইল, সেই সমুদয় প্রমাণেও যদি অর্থাবধারণ না হইয়া উঠে, তখন রাজা স্বয়ং আপনার অন্তরের বিশ্বাস অনুসারে বিবাদ-নির্ণয় করিয়া দিবেন। তখন, রাজাও একটা প্রমাণের মধ্যে পরিগণিত হইবেন।<sup>৪</sup>

<sup>১</sup> আগমো হ্যধিকো ভোগাৎ বিনা পূর্বক্রমাগতাৎ। যাজ্ঞবল্ক্যঃ।

<sup>২</sup> আগমেহপি বলং নৈব ভুক্তিঃ স্তোকাপি যত্র নো ॥

যাজ্ঞবল্ক্যঃ ৩।২৭।

<sup>৩</sup> যোহভিযুক্তঃ পরেতঃ স্মৃৎ তস্মৈ রিক্তী তমুদ্বরেৎ।

ন তত্র কারণং ভুক্তিরাগমেন বিনা কৃত।

যাজ্ঞবল্ক্যঃ ৩।২৯।

<sup>৪</sup> লেখ্যং যত্র ন বিদ্যেত, ন ভুক্তির্ন চ সাক্ষিণঃ।

ন চ দিব্যাবতারোহস্তি, প্রমাণং তত্র পার্থিবঃ ॥

শুক্লনীতিঃ ৪র্থ অধ্যায়ঃ ৫ম প্রঃ ১৭২ শ্লোকঃ

কাত্যায়ন-স্মৃতিশ্চ

স্বতন্ত্রমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৬১

এ বিষয়টী ইংরাজী আইনের সঙ্গে সমানভাবেই উদারতার পরিচায়ক। কারণ, ইংরাজী আইনেও বিচারকের বিশ্বাসের উপর সমধিক নির্ভরতা আছে। (এ বিষয় ভূমিকায় কিছু আভাস দিয়াছি।)

### আগন্তুক প্রমাণ ইত্যাদি

যেখানে কৰ্ষণাদি চিহ্নদর্শনে ভূমির স্বত্বাবধারণ ঘটিতেছে না, বা নদী-খাতাদির সংস্থান ভাল ভাবে না থাকায়, ভূমির চিহ্নসকল বিলুপ্ত হইয়াছে, তথায় বিবাদক্ষেত্রের সীমানির্ণয় সাক্ষীদ্বারা অবধারিত হইবে।

নিম্নলিখিত অভিযোগ উপস্থিত হইলে, বিচারক আগন্তুক প্রমাণের সাহায্য লইবেন।—

“কোন ব্যক্তি বলপূর্বক পরদ্বীগমন করিয়াছে, অথবা পত্নীর প্রতি বিদ্বেষবশে নিজের গুঁরসপুত্রকে জারজ বলিয়া প্রত্যাখ্যান করিতেছে।”

বিচারক উক্ত ক্ষেত্রে অভিযুক্ত্যমানের জননেন্দ্রিয়ের সামর্থ্যের প্রমাণের জন্য, কোন ব্যভিচারিণীর সঙ্গে সম্পর্ক করাইবেন। তাহাতে সেই রমণীর বাক্য “আগন্তুক” রূপে প্রমাণ হইবে।

যদি তাহা অসম্ভব হয়, তবে তাহার মূত্র ফেনিল কিনা, বিষ্ঠা জলে ভাসে কিনা, দেখিবেন। এইরূপ হইলে, তাহার ক্লীবত্ব প্রমাণ হইবে ও নির্দোষত্ব ঘটিবে।

ঐরূপ, উন্মত্ত বা কুষ্ঠরোগাদিযুক্তের অবধারণার্থে, চিকিৎসক ও সন্নিহিত পুরুষদের সাক্ষ্যই প্রমাণরূপে পরিগৃহীত হইবে।

ইতি ভোগ প্রকরণ।

ক্লীবত্বাৎ স্ত্রিয়ঃ। মূত্রং ফেনম্। অস্মু বিষ্ঠানিমজ্জনঞ্চ।

কুষ্ঠোন্মাদরোগৈশ্চিকিৎসকঃ। পুমাংস্চ প্রমাণম্॥

কৌটিল্যঃ, অর্থশাস্ত্রম্ ৭২ প্রকরণম্

### দৈবিক প্রমাণ—দিব্যমাতৃকা ও শপথ

প্রাচীন ভারতীয় দণ্ডনীতিশাস্ত্রে আপ্তঋষিগণ বলিয়া গিয়াছেন যে,

“যখন সাক্ষী, লেখ্য বা ( অভিযোগবিশেষে ) ভোগপ্রমাণে, সত্যাবধারণের সুযোগ পাওয়া যাইল না, তখন রাজা নিজেই অর্থী বা প্রত্যর্থীকে, শপথ বা দিব্যপ্রয়োগে ব্যাপ্ত করিয়া সত্যনির্ণয় করিবেন।”<sup>১</sup>

কিন্তু ঋষিগণ বৃথা শপথকে নিন্দা করিয়া গিয়াছেন। বৃথা শপথকারী ইহলোকে ও পরলোকে ধ্বংসপ্রাপ্ত হয়।<sup>২</sup>

“যে নিজের প্রতি আশঙ্কিত দোষ বিদূরিত করিবার অভিলাষে, আপনাকে পবিত্র দেখাইবার জন্ত, দিব্যপরীক্ষা গ্রহণ করে ও সেই পরীক্ষায় উত্তীর্ণ হয়, সে ব্যক্তি পবিত্রতার জন্ত, ইহলোকে যশঃ ও পরলোকে স্বর্গলাভ করে।”

বৃথা শপথ করা নিন্দনীয় হইলেও নির্দোষতা প্রতিপন্ন করিবার নিমিত্ত, পূর্বের দেবতা ও ঋষিগণের মধ্যেও শপথ করার উদাহরণ দেখা যায়। পুরাণে এই উপাখ্যানটি আছে।—

“রাক্ষসের সন্দেহপাত্র হইয়া ব্রহ্মর্ষি বসিষ্ঠ, এবং ইন্দ্রের সন্দেহ-ভাজন হইয়া সপ্তর্ষিরা সকলেই, পরস্পরের বিশুদ্ধির নিমিত্ত, শপথ করিয়াছিলেন।”<sup>৩</sup>

- ১ উক্তান্তেতানি দিব্যানি বিশুদ্ধার্থং মহাত্মনাম্ ।  
সন্দিগ্ধেহর্থেষুভিযুক্তানাং বিশুদ্ধার্থং হ্রাত্মনাম্ ॥  
প্রোক্তানি নারদেনেহ সত্যানুতবিশুদ্ধয়ে ॥

নারদ-স্মৃতি: ঋগবানাদ্যায়: ২৫০ ।

- ২ ন বৃথা শপথং কুর্যাৎ স্বল্পেহপ্যর্থং নরো বৃধ: ।  
বৃথা হি শপথং কুর্বন্ প্রেত্য চেহ চ নশুতি ॥ মনু: ৮।১১১ ।
- ৩ মহর্ষিভিষ্চ দেবৈশ্চ কার্যার্থং শপথা: কৃতা: ।  
বসিষ্ঠশ্চাপি শপথং শেপে গৈয়বনে নৃপ ॥ মনু: ৮।১১০ ।

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৬৩

ভারতে, হিন্দুরাজাদের সময়ে, অপরাধী ব্যক্তির সাধারণের চক্ষে নির্দোষতা প্রমাণের জ্ঞান, দিব্যপ্রমাণের বহুলপ্রচার ছিল। মুসলমান রাজাদিগের সময়েও, বিচারালয়ে, এ প্রথা প্রবর্তিত ছিল কি না, তাহা নিশ্চিত জানা যায় না। তবে ইহা স্থির যে, তৎকালে বর্ণাশ্রম সমাজের ভিতর, সামাজিক আপুজনের তদ্বাবধানে দোষীর দোষক্ষালণাভিপ্রায়ে, “দিব্যমাতৃকা” ব্যবহারের খুব প্রচলন ছিল।

ইহার পক্ষে নিম্নলিখিত নিদর্শন পাওয়া যায়।—

স্মৃতিমীমাংসাকার রঘুনন্দন ভট্টাচার্য্য মহাশয় ১৪৮০ সালে ( অর্থাৎ ইংরাজী ১৫৫৯ খৃষ্টাব্দে ) নিজের অষ্টাবিংশতিতত্ত্বরূপ স্মৃতিনিবন্ধ প্রণয়ন সমাপন করেন। “দিব্যতত্ত্ব” ঐ গ্রন্থনিচয়ের অন্ততম। উহাতে গ্রন্থকার দিব্য ও শপথের প্রমাণ-বিশেষের কূট মীমাংসার সহিত, সরলপদ্ধতিরও অবতারণা করিয়াছেন। ইহাতেই বিবেচনা হয় যে, তৎকালেও ( অর্থাৎ মোগলদিগের রাজত্বকালেও ) সমগ্র দেশে, বিশেষতঃ বঙ্গে, দিব্যমাতৃকার বিশেষ প্রচলন ছিল।

গার্ডীনার প্রণীত ইংলণ্ডের ইতিহাসে উল্লিখিত আছে যে, “ইউরোপ মহাদেশেও অষ্টাদশ শতাব্দীতে দিব্যমাতৃকার প্রচলন ছিল এবং তদনুসারে বিচার সমাধান হইত।” আমাদের ভারতসম্রাট বর্তমান আইনে “দিব্য-মাতৃকাকে” প্রমাণরূপে গ্রহণ করেন নাই।

সামান্য অভিযোগে, বাদী প্রতিবাদী উভয়ের সম্মতি থাকিলেও দেবতা বা গুরুর পাদস্পর্শাদিরূপ “শপথ” দ্বারা বিচারও আধুনিক আইনের অন্তর্ভুক্ত হয় নাই। তবে, বিচারক ইচ্ছা করিলে ঐ শপথকে “প্রমাণ”রূপে গ্রহণ করিয়া থাকেন। এখনও এইরূপ শপথের ব্যাপার সময়ে সময়ে ভারতীয় বিচারালয়ে ঘটিয়া থাকে।

শাস্ত্র দেখিলে সহজেই বিবেচনা হয়, এই দিব্যমাতৃকার প্রণালী কি বৈচিত্রময়! কি অপূর্ব ধর্মবিশ্বাসের উপর ইহার প্রতিষ্ঠা!! ধর্মেরই বা কি মহিমা!!

ধর্মের উপর দৃঢ়বিশ্বাস রাখিয়া, নিজের নির্দোষতা খ্যাপনের নিমিত্ত লোকে পূর্বের মৃত্যুর গহবরে যাইতেও কুণ্ঠিত হইত না। যে নির্দোষ, সে



ধর্মের উপর বিশ্বাস রাখিয়া, এই অলৌকিক কার্যে প্রবৃত্ত হইত এবং মৃত্যুর করালবদনরূপ দিব্য হইতে অবলীলাক্রমে উত্তীর্ণ হইতে পারিত। যে তিন প্রকার মানুষপ্রমাণের কথা বলা হইয়াছে, সে গুলি একেবারে নির্দোষ হইতে পারে না, কিন্তু এই দিব্যপ্রমাণ একেবারে নির্দোষ। কারণ, একমাত্র ধর্মের ভিত্তির উপরই ইহা প্রতিষ্ঠিত। ইহাতে কিছুমাত্র ছিদ্র থাকিতে পারে না। মানুষপ্রমাণ ক্ষেত্রবিশেষে ভাবমাত্রগোচরও দেখা যায়। কিন্তু এই “দিব্যমাতৃকা” ভাব ও অভাব উভয় আশ্রয়েই বিহিত হয়, এবং ইহা তজ্জন্ম মানুষপ্রমাণ হইতে পৃথক্।

অর্থাৎ, মানুষপ্রমাণে প্রায় সর্বত্র অভিযোক্তা, কোথায়ও বা অভিযুক্ত ব্যক্তি, প্রমাণ প্রদর্শন করিতে বাধ্য। কিন্তু অভিযোক্তা ও অভিযুক্ত উভয়ের মধ্যে যে কেহ পরস্পরের অভিপ্রায়মতে, এই দিব্যমাতৃকায় প্রবৃত্ত হইতে পারে; এবং এই দিব্যপ্রমাণে নির্দোষতা দেখাইবার পক্ষে অবসর, শাস্ত্রে দেওয়া আছে। যখন বিবাদে পরাজিতের দণ্ড অবশ্যস্বাবী হইতেছে, অথবা রাজদ্রোহ, ব্রহ্মহত্যা প্রভৃতি গুরুতর অপরাধে দোষী অবধারিত হইয়াছে, অথচ দণ্ডহীতা উপস্থিত হয় নাই,—এক্ষেত্রেও দিব্যগ্রহণ করা যাইবে।<sup>১</sup>

### দিব্যমাতৃকার পরিচয়

এই দিব্য প্রবল অভিযোগক্ষেত্রে ব্যবহার হইবে। দিব্য প্রধানতঃ পাঁচ প্রকারের বলা আছে, যথা, তুলাদিব্য, অগ্নিদিব্য, জলদিব্য, বিষদিব্য ও কোষদিব্য।<sup>২</sup>

<sup>১</sup> রাজভিঃ শঙ্কিতানাঞ্চ নির্দিষ্টানাঞ্চ দক্ষ্যভিঃ ।

আত্মশুদ্ধিপরাণাঞ্চ দিব্যং দেয়ং শিরো বিনা ॥

কাত্যধনবচনম্ ।

<sup>২</sup> তুলাগ্ধ্যাপো বিষং কোষো দিব্যানীহ বিশুদ্ধয়ে ।

যাজ্ঞবল্ক্যঃ ১৩৯ ।

শ্রুতানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৬৫

তুলাদণ্ডের অপর দিকে সন্দিক্ত পাণীকে বসাইতে হইত। তাহার পরিমাণ আপেক্ষিক অধিক হইলে, সে দোষী বলিয়া অবধারিত হইত। অশ্রুত দিব্যে নির্দ্ধারিত সময় পর্য্যন্ত তাহাকে নিম্নলিখিত কার্য্যগুলি করিতে হইত। যথা, হস্তে অগ্নি রাখা, বা অগ্নির উপর দিয়া পাদচারণ করা, দারুণ শীতে জলে থাকা, বিষপান করা বা বিষধর সর্প লইয়া খেলা করা, এবং কোষ পান করা ( অর্থাৎ দেবতাত্রাঙ্কণের মন্ত্রপূত পাদোদক পান করা ) হইত।

ইহার মধ্যে কোষদিব্য ব্যতীত, প্রথম চারিটি দিব্যই প্রবল অভিযোগে লইতে হইত।\*

সামান্য অভিযোগেই কোষদিব্যের ব্যবস্থা ছিল।

আর, তগুল প্রভৃতি অপর চারিটি দিব্যের, সামান্য অভিযোগক্ষেত্রেই ব্যবহার করিবার বিধিও শাস্ত্রে পাওয়া যায়।

তাহা হইলে সর্বসমেত দিব্য ( ৫ + ৪ = ৯ ) নয় প্রকার বিহিত হইল। ২

কোথায় দিব্য হইবে বা হইবে না

সাধারণতঃ বলা আছে যে, ঋণাদিষটিত স্থাবরসম্পত্তির বিবাদে দিব্য প্রমাণ অবিধেয়।\*

কিন্তু, লেখকাদি প্রমাণের অসম্ভাব হইলে, সকল কার্য্যেই দিব্য-ব্যবহারের অনুমোদন শাস্ত্রে পাওয়া যায়।

১ মহাভিযোগেষেতানি শীর্ষকস্থেভিযোক্তরি।

যাজ্ঞবল্ক্যঃ ৩।৯৭।

২ ধটোহ্মিরুদককৈব বিষং কোষশ্চ পঞ্চমঃ।

বটঞ্চ তণ্ডুলকৈব সপ্তমং তপ্তমাষকম্ ॥

অষ্টমং ফলমিত্যুক্তং নবমং ধর্ম্মজং শ্রুতম্।

দিব্যাত্তেতানি সর্বাণি নির্দিষ্টানি স্বয়ম্ভুবা ॥

বৃহস্পতি-বচনম্।

৩ স্থাবরেষু বিবাদেষু দিব্যানি পরিবর্জ্যেৎ।

যাজ্ঞবল্ক্যঃ ১৩৯।

ঋণাদিবাচিত স্বাবরসম্পত্তির বিবাদে জয়পরাজয় হইলেও যদি অন্যত্র অগ্রীত হন, তবে সেখানেও দিব্যমাতৃকা অবলম্বন করা হইবে, কারণ সত্যের উপরই ধর্মের প্রতিষ্ঠা—সাক্ষীতে তাহার ব্যবহার মাত্র হয় । ১

যাঁহারা যজ্ঞে দোষিত বা তপস্শ্রাবতে নিরত, পীড়ায় শয্যাগত বা শোকে অভিভূত, তাঁহাদের এবং সাধারণতঃ স্ত্রীলোকের দিব্যমাতৃকা প্রমাণে আত্মশুদ্ধি দেখানো নিষেধ আছে । ২

তবে, যে ক্ষেত্রে ইঁহারা বাদী হইয়া অভিযোগ আনিবেন, তথায় অভিযুক্ত্য-মানের ( অর্থাৎ প্রতিবাদীর ) দিব্য প্রমাণ অবলম্বনের বিধি আছে । ঐরূপ ক্ষেত্রবিশেষে অভিযোক্তারও দিব্য প্রমাণ আশ্রয় করিবার কথা আছে । ৩

কিন্তু ইঁহাদের পক্ষে পূর্বোক্ত কালদেশাদির নিষেধ তুলাভিন্ন দিব্যবিষয়েই অবধারিত আছে । তুলাদিব্যগ্রহণ ইঁহাদের সব সময়েই করা চলিবে, কারণ স্ত্রীলোক বালক বৃদ্ধ সাধু ব্রাহ্মণ ও রোগীর পক্ষে কেবল তুলাই হইবে । শূদ্রের পক্ষে অগ্নি ও জল দিব্য নির্দ্ধারিত, তবে ইহা নিয়মবিধি নহে । ৪

প্রাণান্তিক বিবাদক্ষেত্রে প্রমাণান্তর থাকিলেও বাদী আত্মশুদ্ধির জন্য দিব্য অবলম্বন করিতে পারিবেন তথায় সাক্ষীর প্রয়োজন নাই । ৫

১ তত্র সত্যে স্থিতো ধর্মো ব্যবহারস্ত সাক্ষিণি ।

নারদ-বচনম্ ।

২ সব্রতানাং ভূশার্ত্তানাং ব্যাধিতানাং তপস্বিনাম্ ।

স্ত্রীণাঞ্চ ন ভবেদ্রিব্যং যদি ধর্মস্তপোক্ষিতঃ ॥

মিতাক্ষরা-ধৃত-নারদ-বচনম্ ।

৩ উভয়ানুমতে দেয়ং দিব্যং সর্বং প্রযত্নতঃ ॥

নারদঃ ২৫৮ ।

৪ তুলা স্ত্রী-বাল-বৃদ্ধাঙ্ক-পঙ্গু-ব্রাহ্মণ-রোগিণাম্ ।

অগ্নিজলং বা শূদ্রস্ত, যবাঃ সপ্ত বিষস্ত বা ॥

যাক্ষবক্যঃ ৩১০০ ।

৫ প্রাণান্তিকবিবাদেষু বিত্বমানে তু সাধনে ।

দিব্যমাশ্রয়তে বাদী ন পৃচ্ছেৎ তত্র সাধনম্ ॥

শুক্লনীতিঃ ২৫৮ ।

স্বতন্ত্রমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৬৭

জ্ঞীলোকের চরিত্রে সন্দেহক্ষেত্রে, গচ্ছিতবস্তুর অপলাপ করার অভিযোগে, এবং নিবিড় নির্জজন কাননে বা রাত্রিকালে কোন সাহসের কার্য করা হইলে, তথায় দিব্যমাতৃকার অনুসরণই কর্তব্য। কারণ, সেখানে স্বতঃই প্রমাণান্তরের অসম্ভাব আছে।\*

ফলতঃ, যেখানে শঙ্কাবশে অভিযোগ আসিল, তথায় দিব্যপ্রমাণ যেমন সন্দেহ-নির্ণায়ক, অপর প্রমাণ সেরূপ নহে। সুতরাং, সে ক্ষেত্রে দিব্য-প্রমাণই শ্রেষ্ঠ প্রমাণ। স্থান, কাল ও পাত্রের অনুসারে দিব্যবিশেষের অনুষ্ঠানের কথা প্রাচীন-ভারতীয় ব্যবহারশাস্ত্রে বিশেষরূপেই বলা আছে।

তবে দিব্যমাতৃকার আশ্রয় ইচ্ছামতে করা হইবে না, কারণ স্থান, কাল ও পাত্র বিচার না করিয়া দিব্যমাতৃকায় ব্যাপ্ত হইলে, সন্দেহ-নিরাকরণ দূরে থাকুক, অঘটনই ঘটয়া থাকে।\* পরন্তু প্রাচীন শাস্ত্রে জ্ঞীলোকের পক্ষে বিষদিব্য ও জলদিব্য নাই।\*

### কোন্ ক্ষেত্রে কোন্ দিব্য বিধেয়

গুরুতর অভিযোগ উপস্থিত হইলে, তুলা, অগ্নি, জল, বিষ ও কোষ এই পাঁচ প্রকার দিব্য, এবং সাহস্কার ব্যবহারে কেবলমাত্র কোষ দিব্য প্রমাণরূপে গৃহীত হইত।\*

\* পরদারভিপাপে চ চৌর্যাগম্যাগমেষু চ।

মহাপাতকপাপেষু তাদ্দিব্যং নৃপ সাহসে ॥

(ব্যবহারতত্ত্বতম্) কালিকাপুরাণ-বচনম্।

\* অদেশ-কালদন্তানি বহির্বাদিকৃতান্তথ।

ব্যতিচারঃ সদা ত্বেবং কুরুতীহ ন সংশয়ঃ ॥ বৃহস্পতিঃ।

\* জ্ঞীণান্ত ন বিষং প্রোক্তং ন চাপি সলিলং স্বতম্। বৃহস্পতিঃ।

\* তুলাঘ্যাপো বিষং কোষো দিব্যানীহ বিভুদ্ধয়ে।

যাজ্ঞবল্ক্যঃ ৯৭।

কোষান্তানি তুলাদানি গুরুধর্থেষু দাপয়েৎ।

নারদস্মৃতিঃ ৩৩৬।

দিব্যপ্রমাণ আশ্রয় করিবার এই সাধারণ নিয়ম আছে যে, অভিযোক্তা দণ্ডার্থ হইলে, অভিযুক্ত ব্যক্তি দিব্যমাতৃকায় নিরত হইতেন; অথবা উভয়ের সম্মতিক্রমে, উভয়ের যে কেহ হইতে পারিতেন।<sup>১</sup>

সামান্য চৌর্য্য প্রভৃতি অপরাধক্ষেত্রেই তণ্ডুল, তপ্ত-মাষ, কাল ও ধন্বজ — এই চারিটা ক্ষুদ্র দিব্য অনুসৃত হইত।<sup>২</sup>

তপ্ত-মাষ দিব্যটি মহাচৌর্য্যে ( অর্থাৎ ডাকাতি প্রভৃতি অভিযোগ আসিলে ) বিশুদ্ধির জন্য আশ্রয় করা হইত।

দিব্যের একটা নাম “দিব্যমাতৃকা”, আর একটা নাম “দিব্যপরীক্ষা”, কারণ, ইহার দ্বারা পাপের পরীক্ষা হয়। এইরূপ, “তুলাপরীক্ষা”, “অগ্নিপরীক্ষা” ইত্যাদি।

### দিব্যমাতৃকা অনুসরণ করিবার বিশেষ বিশেষ সময়

রাজা স্বয়ং উপস্থিত থাকিয়া দিব্য গ্রহণ করাইতেন। চৈত্র, বৈশাখ ও অগ্রহায়ণ মাস সাধারণতঃ দিব্যপ্রমাণের কালরূপে নির্ণীত আছে, কিন্তু তুলারূপ দিব্যমাতৃকা সকল ঋতুতেই হইত, তবে বায়ু বহিতে থাকিলে তুলাপরীক্ষা হইত না। শীত, হেমন্ত ও বর্ষা ঋতুতে অগ্নিপরীক্ষা হইত। গ্রীষ্ম ও শরৎকাল জলমাতৃকার, এবং হেমন্ত ও শীতকাল বিষমাতৃকার সময় ছিল। তণ্ডুলাদি অন্যান্য দিব্যমাতৃকা সকল ঋতুতে ও সকল সময়েই হইবার কথা আছে।<sup>৩</sup>

<sup>১</sup> রুচ্যা বাহুতরঃ কুর্যাদিতরো বর্তয়েচ্ছিরঃ ॥ যাজ্ঞবল্ক্যঃ ২৭।

<sup>২</sup> চৌর্য্যে তু তণ্ডুলা দেয়াঃ। নারদস্মৃতিঃ ৩৩৭।

<sup>৩</sup> চৈত্রো মার্গশিরাশ্চৈব বৈশাখশ্চ তথাবিধঃ।

এতে সাধারণা মাসা দিব্যানামবিরোধিনঃ ॥

ধটঃ সর্কর্জকঃ প্রোক্তো বাতে বাতি বিবর্জ্জয়েৎ।

অগ্নিঃ শিশির-হেমন্ত-বর্ষাশ্চ পরিকীর্তিতঃ ॥

শরৎ-গ্রীষ্মে তু সলিলং হেমন্তে শিশিরে বিষম্।

কোষস্ত সর্কদা দেয়ন্তলা শ্রাৎ সর্ককালিকা ॥

( মিতাক্ষরা-দিব্যতত্ত্বতঃ ) পিতামহবচনম্।

শ্রুতানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৬৯

অকালে বা মলমাসে এই সকল কার্য্য হইত না। দিব্যকর্ত্তার চন্দ্রতারাশুদ্ধি দেখাও আবশ্যক হইত।<sup>১</sup>

সাধারণতঃ, পূর্ব্বাহ্নেই দিব্য গ্রহণ হইত।<sup>২</sup>

পণ্ডিত ব্রাহ্মণদিগের ও অগ্ন্যন্ত্র প্রজাদিগের সন্নিধানে রাজা স্বয়ং বা কোন রাজপ্রতিনিধি সভা করিয়া দিব্যদানের আদেশ দিতেন, তখন উঁহাদের সম্মুখেই দিব্যগ্রহণ হইত। যে দিব্য লইত, তাহার পূর্ব্ব সংঘমাদি আবশ্যক হইত।<sup>৩</sup>

তুলা প্রভৃতি যে পাঁচটী বড় পরীক্ষার কথা বলা হইয়াছে, তাহার মধ্যে কোষপরীক্ষা চারিবর্ণের পক্ষেই বিহিত, এবং

ব্রাহ্মণের পক্ষে তুলাপরীক্ষা,

ক্ষত্রিয়ের „ অগ্নিপরীক্ষা,

বৈশ্যের „ জলপরীক্ষা ও

শূদ্রের „ বিষপরীক্ষা বিশেষ নিয়ম ;

তবে, সমর্থ-অসমর্থ বিবেচনা করিয়া, রাজা ও ব্রাহ্মণসভ্যেরা ইহার বিপরীত বিধানও করিতে পারিতেন, এবং তদনুসারে সকলেরই সকল পরীক্ষা হইতে পারিত ; কেবল ব্রাহ্মণের বিষপরীক্ষা হইতে পারিত না।

সিংহস্থে মকরস্থে চ গুরৌ চাক্ষুশপাগতে ।

মলমাসে ন কর্তব্য পরীক্ষা জয়কাজিকা ॥

( দিব্যতত্ত্বতম্ ) জ্যোতিষম্ ।

পূর্ব্বাহ্নে সর্গদিব্যানাং প্রদানং পরীক্ষিতম্ । নারদঃ ।

প্রত্যক্ষং দাপয়েদ্ব্যং রাজা বাহুধিকৃতোহপি বা ।

ব্রাহ্মণানাং শ্রুতবতাং প্রকৃতীনাং তথৈব চ ॥

( দিব্যতত্ত্বতম্ ) পিতামহবচনম্

ব্রাহ্মণস্ত ধটো দেয়ঃ ক্ষত্রিয়স্ত হুতাশনঃ ।

বৈশ্যস্ত সলিলং দেয়ং শূদ্রস্ত বিষমেব চ ॥

সাধারণঃ সমস্তানাং কোষঃ প্রোক্তো মনৌষিভিঃ ।

বিষবর্জ্জং ব্রাহ্মণস্ত সর্ব্বেষাম্তু তুলা শ্রুতা ॥

নারদস্মৃতিঃ দিব্যতত্ত্বতম্ ।

ধর্মের অনুসরণ করা হইলে পণ্ডিত, তপোনিষ্ঠ, ব্রাহ্মণ ও স্ত্রীলোকের পক্ষে সহজে বৃহৎপরীক্ষা করা হইত না।<sup>১</sup>

যদিও পূর্বের বলা হইয়াছে যে, অভিযুক্তের শুদ্ধিনির্ণয় দিব্যমাতৃকায় হইবে, তথাপি যেখানে স্ত্রীলোক অভিযুক্ত হইয়াছে, তথায় তাহার দিব্য-মাতৃকা না হইয়া অভিযোক্তারই হইবে। তবে যেখানে স্ত্রীলোক নিজে সম্মত হইবে<sup>২</sup> তথায় মাত্র তুলা- ও কোষ- পরীক্ষা গ্রহণ করা যাইতে পারে। \*

সাধারণ ক্ষুদ্র দিব্যে স্বল্পাভিযোগে যে তণ্ডুল-পরীক্ষা করা হইত, তাহার পরিপাটি এই যে, কতকগুলি তণ্ডুল দেবতার স্নানজলে মিশ্রিত করিয়া বিচারক দিব্যকারীকে ভোজন করাইবেন। ভোজনের পর যদি তাহাতে শোণিতসম্পর্ক দেখা যায়, তবে তাহার দোষ আছে বলিয়া বুঝিতে হইবে।

তপ্তমায়-পরীক্ষা :—

যদি উষ্ণ পাত্র হইতে মায় উঠাইবার কালে দিব্যকারীর হাত না কাঁপিত, তবে তাহার নিষ্পাপত্ব অবধারিত হইত।

এই প্রকার অগ্ন্যস্ত্র ক্ষুদ্র ক্ষুদ্র দিব্যপরীক্ষা দিব্য পূর্বেরও দিব্যকারীকে সংযমী থাকিতে হইত। দিব্য- ও দেবতা-বিশেষের পূজা, হোম প্রভৃতির বিধানও আছে।

দিব্যকারী যদি চরিত্রহীন ও নাস্তিক হয়, তবে সভায় রাজা ও সভ্য-জনের নির্দেশানুসারে কোন চরিত্রবান্ ব্যক্তি তাহার হইয়া দিব্যমাতৃকা লইতে পারেন। সুতরাং দিব্যকার্য্য প্রতিনিধি দ্বারাও চলিতে পারে।

<sup>১</sup> সত্রতানাং ভূশার্ত্তানাং ব্যাধিতানাং তপস্বিনাম্।

স্ত্রীণাঞ্চ ন ভবেদ্বিব্যং যদি ধর্ম্মত্বপেক্ষিতঃ।<sup>১</sup>

নারদ-স্মৃতিঃ।

<sup>২</sup> কৃত্য্য বাস্ততরং কূর্য্যাং।—যাজ্ঞবল্ক্যঃ।

<sup>৩</sup> স্ত্রীণাস্ত ন বিয়ং প্রোক্তং ন চাপি সলিলং তথা।

ধটকোষাদিত্তিস্তাসমিস্তত্বং বিচারয়েৎ॥

পিতামহঃ।

শ্রুতানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৭১

শাস্ত্রকারদিগের আদেশ হইতে এ বিষয়ের বহু বক্তব্য পাওয়া যায়, কিন্তু সে বিষয় বর্তমান সময়ে বলিতে যাওয়া অরণ্যে রোদনের মত বৃথাই হয়। তাই বেশী কথার উত্থাপন করিলাম না।

দিব্যমাতৃকার বিশেষত্ব এই যে, পীড়িত ও জলজীবীকে ( জেলে, মালা ) জল-পরীক্ষা, কন্দকার, কুষ্ঠী ও কুনখীকে অগ্নি-পরীক্ষা এবং মুখরোগীকে তণ্ডুল-পরীক্ষা করিতে দেওয়া হইত না। ইহার কারণ সহজেই বুঝা যায়।

### দিব্যপ্রয়োগের সংক্ষিপ্ত বিবরণ

#### ১। তুলা

তুলা-পরীক্ষায়, তুলাদণ্ডের একদিকে দিব্যকারী এবং অপরদিকে তণ্ডুলাদিদ্রব্য রাখিলে যদি তুলায় দিব্যকারী লঘুভার হয়, তবে সে দোষী বিবেচিত হইবে।

#### ২। অগ্নি

অগ্নি-পরীক্ষায়, তণ্ডুলোহপিণ্ড অঞ্জলিতে লইয়া, সাত পা যাইয়া, ( বিচারককর্তৃক পূর্বস্থাপিত ) অগ্নিতে ঐ লৌহগোলক অদৃষ্টহস্তে নিক্ষেপ করিতে পারিলেই, দিব্যকারী শুদ্ধ বলিয়া বিবেচিত হইবে।

#### ৩। বিষ

বিষ-পরীক্ষায়, মৃত্তপূত-বিষপানে বা বিষধরসর্পধারণে অক্ষত থাকিলে শুদ্ধ বলিয়া বিবেচিত হইবে।

#### ৪। কোষ

কোষ-পরীক্ষায়, দেবতার পূজায় অঙ্গ-ক্ষালিতজলপানে শুদ্ধ। এই পরীক্ষার কাল এক পক্ষ। ইহার মধ্যে কোন আপদ না হইলে, দিব্যকারী পরীক্ষায় উত্তীর্ণ হইত।



## দ্বিতীয় দৈবিক প্রমাণ

## শপথ

সামান্য অভিযোগে শপথ করার যে বিধি পূর্বের বলিয়াছি, তদ্বিষয়ে শাস্ত্র বলেন—

সাক্ষিবিহীন বিবাদে সত্য-নির্ণয়ের জন্য রাজা শপথ করাইয়াও সত্য বাহির করিবেন । ১

দেবতা, গুরু বা মাতাপিতার চরণ, কিংবা স্ত্রী, পুত্র বা বন্ধুজনের মস্তক স্পর্শ করিয়া বলিতে হইবে যে, “আমি উক্ত কার্য্য করি নাই বা ও-সম্বন্ধে কিছু জানি না ।” ২

অথবা, ব্রাহ্মণকে “সত্য বলিব” বলাইয়া, ক্ষত্রিয়কে “আমার বাহন ও অস্ত্র নিষ্ফল হইবে” বলাইয়া, বৈশ্যকে “গো, বীজ ও স্বর্ণ সকল বিফল হইবে” বলাইয়া, এবং শূদ্রকে “যদি আমি মিথ্যা বলি আমাতে সকল পাপ অর্শিবে” এই কথা বলাইয়া শপথ করাইবে । ৩

কোষ পান করিবার সময়ে নিম্নলিখিত বাক্যটি উচ্চারণ করিতে হইত :—  
“যদি আমি আরোপিত দোষ করিয়া থাকি বা ঐ সম্বন্ধে কিছু জানি, তাহা হইলে আমার সঞ্চিত পুণ্য নষ্ট হউক ।”

১ অসাক্ষিকেষু স্বর্থেষু মিথ্যা বিবাদমানয়োঃ ।

অবিদংস্তত্ততঃ সত্যং শপথেনাপি লভয়েৎ ॥

মতুঃ ।

২ দেব-ব্রাহ্মণপাদাংস্ত পুত্রদারশিরাংসি চ ।

এতেষু শপথাঃ প্রোক্তা মনুনা স্বরূপকারণে ॥

বৃহস্পতিঃ ।

পুত্রদারস্ত বাপ্যোনং শিরাংসি গ্রাহয়েদ্ যথা ।

কাত্যায়নঃ ।

৩ সত্যেন শাপয়েদ্বিপ্রং ক্ষত্রিয়ং বাহনাস্বধৈঃ ।

গো-বীজ-কাঞ্চনৈর্বৈশ্বং শূদ্রং সর্পৈস্ত পাতকৈঃ ॥

মতুঃ ৮ম অধ্যায়ঃ

দিব্যমাতৃকার শ্রায় শপথে দেশ-কাল দেখিবার প্রয়োজন নাই, এবং সংযমেরও অপেক্ষা হয় না ; যে-কোন সময়েই হইতে পারে, কিন্তু দিব্যের শ্রায় প্রতিনিধির দ্বারা হইবে না, কেবল শৌচার্থে স্নান-আচমন বিধান আছে। বিচারক বর্ণানুসারে সাক্ষীদের যাহাকে যেরূপ সত্যে বদ্ধ করিয়া দিবেন, শপথকারীও প্রথমে সেইরূপ সত্যে বদ্ধ হইবেন, পরে দেবতাপাদাদি স্পর্শ করিবেন।

যদিও সামান্যতঃ শাস্ত্রে বলা আছে “বৃথা শপথ করিতে নাই”,<sup>১</sup> তথাপি, যেখানে শপথ করিলে ব্রাহ্মণ-রক্ষা, বিবাহ-নিষ্পত্তি, গাভীর ভোজ্যসমাবেশ বা অগ্নিরক্ষার উপযোগী কাষ্ঠাদিলাভ ঘটে, তথায় শপথ আপ্তজনের অনুমোদিত।<sup>২</sup> এই দিব্যপ্রমাণের ভিন্ন ভিন্ন অনুষ্ঠান- পদ্ধতি শাস্ত্রে যেরূপ বিস্তৃত আছে, তাহার বর্ণনা করিতে গেলে প্রবন্ধের কলেবর বিশেষ আয়ত হইয়া পড়ে, অধিকন্তু এই দিব্যপ্রমাণ বর্তমানকালে কোন কার্যেই আসে না এবং লোকে এই প্রমাণের প্রতি আস্থা রাখে না। সুতরাং এই অনাবশ্যক প্রমাণের বিষয় বেশী বলা নিষ্প্রয়োজন বুঝিয়া ক্ষান্ত হইলাম। প্রাচীনকালে কাহারও দোষ শঙ্কার বিষয় হইলে এবং তজ্জন্য অভিশাপ পড়িবার উপক্রম হইলে দিব্যগ্রহণ আবশ্যক হইত। কিন্তু বর্তমানে অভিশাপের অবকাশ নাই ; মস্মব্যথা-প্রাপ্ত ব্যক্তির নিকট হইতে বাহির হইলেও, অভিশাপের প্রায়ই শক্তিবিকাশ হয় না। ধর্ম্মভয় উঠিয়া গিয়াছে, সুতরাং বর্তমান কালে দিব্যপ্রমাণ নিরাশ্রয় হইয়া মাত্র “শাস্ত্রে অভিহিত” হইয়াই রহিয়াছে।

### প্রাচীনভারতে “আপীল”

প্রাচীনভারতে “আপীল” করার মত এক প্রথাও দেখা যায়। “আপীল” যথাক্রমে নিম্নলিখিত স্থলে করিতে হইত :—

প্রথম—জ্ঞাতিজনের মধ্যস্থতায় ;

<sup>১</sup> ন বৃথা শপথং কুপ্যাৎ। মনুঃ ৮ম অধ্যায়ঃ।

<sup>২</sup> কামিনীষু বিবাহেষু গবাং ভক্ষ্যে তথেক্ষনে।

ব্রাহ্মণভূষণপণ্ডিত চ শপথে নাস্তি দ্বণম্ ॥ মনুঃ ৮।১১২।

দ্বিতীয়—প্রতিবেশীদের ( ভিন্নধর্মী হইলেও ) কাছে ;

তৃতীয়—কুলের কাছে ( কুল=নৌচজাতীয় প্রতিবেশী বা অপ্রতিবেশী ব্রাহ্মণগণ ) ;

চতুর্থ—শ্রেণীর কাছে ( শ্রেণী = ভিন্নধর্মী অপ্রতিবেশী ) ;

পঞ্চম—পূণের কাছে ( পূণ = ভিন্নগ্রামীণ মধ্যস্থ ) ; এবং

ষষ্ঠ বা শেষ—রাজার কাছে ।

দেওয়ানী মোকদ্দমায় উক্ত ক্রম লক্ষিত হইত, কিন্তু ফৌজদারী মামলার বিচার রাজা স্বয়ং বা তাঁহার প্রতিনিধি করিতেন ; অন্য কাহারও কাছে হইত না ।

উপরে যে পাঁচ প্রকার ব্যক্তির কাছে বিচারকার্যের উল্লেখ করিলাম ইঁহারা রাজনিযুক্ত না হইয়া সাধারণ মধ্যস্থ হইয়াও বিচার করিতেন । নচেৎ গ্রামে গ্রামে, নগরে নগরে গ্রামাধ্যক্ষ, দশগ্রামাধ্যক্ষ, শতগ্রামাধ্যক্ষ প্রভৃতি বিচারক রাজনিযুক্ত হইয়া বিচারকার্য করিতেন, তাঁহাদের নিকটও উত্তরোত্তর আপীল করা চলিত ।

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## পরিশিষ্ট

ভূমিকায় প্রমাণ-বিষয়ক আইনের তুলনামূলকতা দেখাইবার উদ্দেশ্যে কিছু কিছু বলিয়া আসিয়াছি এবং প্রকৌণিক প্রমাণে যে বিষয়ের আভাসমাত্র দেখাইয়াছি এক্ষণে সে বিষয়ে দুই একটি কথা বলিবার অবসর উপস্থিত হওয়ায় কিছু লিখিতেছি ।

প্রাচীন ভারতীয় বিচারকার্যে দেখা যায়, সীমাবিবাদে সীমানির্দ্ধাবণ-কল্পে নদীখাত, প্রাচীন বৃক্ষ ও প্রোথিত তুষারান্ধারকাদি চিহ্ন সকল স্বত্বনিরূপক প্রমাণরূপে ব্যবহৃত হইত এবং যদি তাদৃশ চিহ্নের অসম্ভাব ঘটিত তখন পারিপার্শ্বিক গ্রামবাসী বা নাগরিক বৃদ্ধজনেরা যাহা বলিতেন তাহাই প্রমাণ হইত ।<sup>১</sup>

আরও একটি এইরূপ মধুর নিয়ম থাকার কথা জানা যায় যে, গ্রামের বৃদ্ধেরা ( অর্থাৎ যখন যাঁহারা বৃদ্ধ থাকিতেন তাঁহারা ) বালকদিগকে সীমা সকল দেখাইয়া রাখিতেন । এইরূপে ক্রমিক বৃদ্ধ-পরম্পরায় অবগত সীমাই বিবাদক্ষেত্রের নিশ্চায়ক হইত ।<sup>২</sup>

তাহার অসম্ভাব ঘটিলে রাজা স্বয়ংই সীমা-নির্ণায়ক হইতেন ।

<sup>১</sup> ক্ষেত্র-সীমা-বিবাদেষু সামন্তেভ্যো বিনিশ্চয়ঃ ।

নগরগ্রামগণিনো যে চ বৃদ্ধতমা নরঃ ॥ নারদঃ

<sup>২</sup> ততঃ পোগণ্ডবালানাং প্রযত্নেন প্রদর্শয়েৎ ।

বার্দ্ধকে চ শিশুনাং তে দর্শয়েয়ুস্তথৈব চ ॥

এবং পরম্পরাজ্ঞানৈঃ সীমাদ্রাস্তি ন জায়তে ।

বৃহস্পতিঃ ।

<sup>৩</sup> অভাবে জ্ঞাতৃচিহ্নানাং রাজা পীয়ঃ প্রবর্তকঃ ॥

যাজ্ঞবল্ক্যঃ ।

## দ্বিতীয় দৈবিক প্রমাণ

## শপথ

সামান্য অভিযোগে শপথ করার যে বিধি পূর্বের বলিয়াছি, তদ্বিষয়ে শাস্ত্র বলেন—

সাক্ষিবিহীন বিবাদে সত্য-নির্ণয়ের জন্য রাজা শপথ করাইয়াও সত্য বাহির করিবেন । ১

দেবতা, গুরু বা মাতাপিতার চরণ, কিংবা স্ত্রী, পুত্র বা বন্ধুজনের মস্তক স্পর্শ করিয়া বলিতে হইবে যে, “আমি উক্ত কার্য্য করি নাই বা ও-সম্বন্ধে কিছু জানি না ।” ২

অথবা, ব্রাহ্মণকে “সত্য বলিব” বলাইয়া, ক্ষত্রিয়কে “আমার বাহন ও অস্ত্র নিষ্ফল হইবে” বলাইয়া, বৈশ্যকে “গো, বীজ ও স্বর্ণ সকল বিফল হইবে” বলাইয়া, এবং শূদ্রকে “যদি আমি মিথ্যা বলি আমাতে সকল পাপ অর্শিবে” এই কথা বলাইয়া শপথ করাইবে । ৩

কোষ পান করিবার সময়ে নিম্নলিখিত বাক্যটি উচ্চারণ করিতে হইত :—  
“যদি আমি আরোপিত দোষ করিয়া থাকি বা ঐ সম্বন্ধে কিছু জানি, তাহা হইলে আমার সক্ষিত পুণ্য নষ্ট হউক ।”

১ অসাক্ষিকেষু স্বর্থেষু মিথ্যা বিবদমানয়োঃ ।

অবিদংস্তত্ততঃ সত্যং শপথেনাপি লভয়েৎ ॥

মহুঃ ।

২ দেব-ব্রাহ্মণপাদাংস্ত পুত্রদারশিরাংসি চ ।

এতেষু শপথাঃ প্রোক্তা মহুনা স্বরূপকারণে ॥

বৃহস্পতিঃ ।

পুত্রদারস্ত বাপ্যেনং শিরাংসি গ্রাহয়েদ্ যথা ।

কাত্যায়নঃ ।

৩ সত্যেন শাপয়েদ্বিগ্রং ক্ষত্রিয়ং বাহনায়ুধৈঃ ।

গো-বীজ-কাঞ্চনৈর্বৈশ্বং শূদ্রং সর্বৈশ্ব পাতকৈঃ ॥

মহুঃ ৮ম অধ্যায়ঃ

দিব্যমাতৃকার শ্রায় শপথে দেশ-কাল দেখিবার প্রয়োজন নাই, এবং সংঘেরও অপেক্ষা হয় না ; যে-কোন সময়ই হইতে পারে, কিন্তু দিব্যের শ্রায় প্রতিনিধির দ্বারা হইবে না, কেবল শৌচার্থে স্নান-আচমন বিধান আছে। বিচারক বর্ণানুসারে সাক্ষীদের যাহাকে যেরূপ সত্যে বদ্ধ করিয়া দিবেন, শপথকারীও প্রথমে সেইরূপ সত্যে বদ্ধ হইবেন, পরে দেবতাপাদাদি স্পর্শ করিবেন।

যদিও সামান্যতঃ শাস্ত্রে বলা আছে “বৃথা শপথ করিতে নাই”,<sup>১</sup> তথাপি, যেখানে শপথ করিলে ব্রাহ্মণ-রক্ষা, বিবাহ-নিষ্পত্তি, গাভীর ভোজ্যসমাবেশ বা অগ্নিরক্ষার উপযোগী কাষ্ঠাদিলাভ ঘটে, তথায় শপথ আপ্তজনের অনুমোদিত।<sup>২</sup> এই দিব্যপ্রমাণের ভিন্ন ভিন্ন অনুষ্ঠান- পদ্ধতি শাস্ত্রে যেরূপ বিস্তৃত আছে, তাহার বর্ণনা করিতে গেলে প্রবন্ধের কলেবর বিশেষ আয়ত হইয়া পড়ে, অধিকন্তু এই দিব্যপ্রমাণ বর্তমানকালে কোন কার্যেই আসে না এবং লোকে এই প্রমাণের প্রতি আস্থা রাখে না। সুতরাং এই অনাবশ্যক প্রমাণের বিষয় বেশী বলা নিষ্প্রয়োজন বুঝিয়া ক্ষান্ত হইলাম। প্রাচীনকালে কাহারও দোষ শঙ্কার বিষয় হইলে এবং তজ্জগৎ অভিশাপ পড়িবার উপক্রম হইলে দিব্যগ্রহণ আবশ্যক হইত। কিন্তু বর্তমানে অভিশাপের অবকাশ নাই ; মর্ম্মব্যথা-প্রাপ্ত ব্যক্তির নিকট হইতে বাহির হইলেও, অভিশাপের প্রায়ই শক্তিবিকাশ হয় না। ধর্ম্মভয় উঠিয়া গিয়াছে, সুতরাং বর্তমান কালে দিব্যপ্রমাণ নিরাশ্রয় হইয়া মাত্র “শাস্ত্রে অভিহিত” হইয়াই রহিয়াছে।

### প্রাচীনভারতে “আপীল”

প্রাচীনভারতে “আপীল” করার মত এক প্রথাও দেখা যায়। “আপীল” যথাক্রমে নিম্নলিখিত স্থলে করিতে হইত :—

প্রথম—জ্ঞাতিজনের মধ্যস্থতায় ;

<sup>১</sup> ন বৃথা শপথং কুর্ঘ্যাৎ । মনুঃ ৮ম অধ্যায়ঃ ।

<sup>২</sup> কামিনীষু বিবাহেষু গবাং ভক্ষ্যে তথেক্ষনে ।

ব্রাহ্মণভূপপত্তৌ চ শপথে নাস্তি দৃশ্যম্ ॥ মনুঃ ৮।১১২ ।

দ্বিতীয়—প্রতিবেশীদের ( ভিন্নধর্মী হইলেও ) কাছে ;

তৃতীয়—কুলের কাছে ( কুল=নৌচজাতীয় প্রতিবেশী বা অপ্রতিবেশী ব্রাহ্মণগণ ) ;

চতুর্থ—শ্রেণীর কাছে ( শ্রেণী=ভিন্নধর্মী অপ্রতিবেশী ) ;

পঞ্চম—পূণের কাছে ( পূণ=ভিন্নগ্রামীণ মধ্যস্থ ) ; এবং

ষষ্ঠ বা শেষ—রাজার কাছে ।

দেওয়ানী মোকদমায় উক্ত ক্রম লক্ষিত হইত, কিন্তু ফৌজদারী মামলার বিচার রাজা স্বয়ং বা তাঁহার প্রতিনিধি করিতেন ; অন্য কাহারও কাছে হইত না ।

উপরে যে পাঁচ প্রকার ব্যক্তির কাছে বিচারকার্যের উল্লেখ করিলাম ইঁহারা রাজনিযুক্ত না হইয়া সাধারণ মধ্যস্থ হইয়াও বিচার করিতেন । নচেৎ গ্রামে গ্রামে, নগরে নগরে গ্রামাধ্যক্ষ, দশগ্রামাধ্যক্ষ, শতগ্রামাধ্যক্ষ প্রভৃতি বিচারক রাজনিযুক্ত হইয়া বিচারকার্য করিতেন, তাঁহাদের নিকটও উত্তরোত্তর আপীল করা চলিত ।

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## পরিশিষ্ট

ভূমিকায় প্রমাণ-বিষয়ক আইনের তুলনামূলকতা দেখাইবার উদ্দেশ্যে কিছু কিছু বলিয়া আসিয়াছি এবং প্রকৌণিক প্রমাণে যে বিষয়ের আভাসমাত্র দেখাইয়াছি এক্ষণে সে বিষয়ে দুই একটা কথা বলিবার অবসর উপস্থিত হওয়ায় কিছু লিখিতেছি।

প্রাচীন ভারতীয় বিচারকার্যে দেখা যায়, সীমাবিবাদে সীমানির্দ্ধারণ-কল্পে নদীখাত, প্রাচীন বৃক্ষ ও প্রোথিত তুষারাজ্জরকাদি চিহ্ন সকল স্বত্বনিরূপক প্রমাণরূপে ব্যবহৃত হইত এবং যদি তাদৃশ চিহ্নের অসম্ভাব ঘটিত তখন পারিপার্শ্বিক গ্রামবাসী বা নাগরিক বৃদ্ধজনেরা যাহা বলিতেন তাহাই প্রমাণ হইত।<sup>১</sup>

আরও একটা এইরূপ মধুর নিয়ম থাকার কথা জানা যায় যে, গ্রামের বৃদ্ধেরা ( অর্থাৎ যখন যাঁহারা বৃদ্ধ থাকিতেন তাঁহারা ) বালকদিগকে সীমা সকল দেখাইয়া রাখিতেন। এইরূপে ক্রমিক বৃদ্ধ-পরম্পরায় অবগত সীমাই বিবাদক্ষেত্রের নিশ্চায়ক হইত।<sup>২</sup>

তাহার অসম্ভাব ঘটিলে রাজা স্বয়ংই সীমা-নির্ণায়ক হইতেন।<sup>৩</sup>

<sup>১</sup> ক্ষেত্র-সীমা-বিবাদেষু সামন্তেষ্যো বিনিশ্চয়ঃ ।

নগরগ্রামগণিনো যে চ বৃদ্ধতমা নরঃ ॥ নারদঃ

<sup>২</sup> ততঃ পোগণ্ডবালানাং প্রযত্নেন প্রদর্শয়েৎ ।

বার্দ্ধকে চ শিশুনাং তে দর্শয়েয়ুস্তথৈব চ ॥

এবং পরম্পরাজ্ঞানৈঃ সীমাত্রাস্তি ন জায়তে ।

বৃহস্পতিঃ ।

<sup>৩</sup> অভাবে জ্ঞাতৃচিহ্নানাং রাজা পীয়ঃ প্রবর্তকঃ ॥

যাজ্ঞবল্ক্যঃ ।



কারণ, Adverse possession against a co-owner, অর্থাৎ অংশীদারের বিরুদ্ধে ভোগ-প্রমাণসম্বন্ধে নজীর—২৪ সংখ্যক Calcutta Weekly Notes এ ১০২৭ পৃষ্ঠায় আছে। তাহাতে ৫০ বর্ষ অপ্রতিবাদ ভোগেও বিচারে ভূস্বামীর স্বত্ত্ব অবধারিত আছে। ভোগকারীর স্বত্ত্ব ঘটে নাই। তবে এই নজীরটী জ্ঞাতিদের ভিতর সংশ্লিষ্ট থাকা সম্পত্তির বিষয়ে হইলেও বহুদিনাবধি নানা হস্তান্তরিত হইয়া আসিতেছিল।

বর্তমান আইনে ১২ বর্ষ পরে স্বত্বনাশের ( অর্থাৎ তামাদি হওয়ার ) কথা ১৪২ ও ১৪৩ ধারায় বলা আছে। কিন্তু প্রাচীন আইনে এইমাত্র দেখান আছে, যেখানে দশ বৎসর অপ্রতিবাদে ভোগ হয় সেখানে যদি তখনও ঐ পূর্বস্বামী কোন দলীলাদি প্রমাণ দেখাইতে না পারেন, তবে পূর্বস্বামীর স্বত্ত্ব নষ্ট হইতে পারে। ক্রয় বা দানাদির লিপি দেখাইতে পারিলে পূর্বস্বামীর স্বত্ত্ব অক্ষুণ্ণ থাকিবে। তথায় ভোক্তার স্বত্ত্ব যাইবে। কেবল ভোক্তা ঐ সম্পত্তিতে যাহা কিছু ভোগ করিয়াছেন তাহা তাঁহাকে প্রত্যর্পণ করিতে হইবে না।

এ বিষয় বিবেচনা করিলে এই সূক্ষ্ম সিদ্ধান্তে উপনীত হওয়া যায় যে, বর্তমান আইনের মর্ম্মটী প্রাচীন আইনের সঙ্গে মিশ্রণ করা হইলে ভাল হয় ; কারণ ভোক্তার অপ্রতিবাদ-ভোগে ধনস্বামী নিজ স্বত্ত্বে বঞ্চিত হইবেন, ইহা যেন আজ্ঞাবাক্যের ভারমাত্র, কোন সাধু অভিসন্ধি বুঝা যায় না।

প্রবন্ধমধ্যে সাক্ষিরূপ প্রমাণ লিখিবার সময়ে দুই একটী বিষয় অসম্মিষ্ট আছে। সে সম্বন্ধে বক্তব্য এই, প্রাচীন ভারতীয় আইনে পাওয়া যায় দেওয়ানী মকদ্দমায় যে ব্যক্তির নামে অভিযোগ আসিল, অভিযুক্ত ব্যক্তি যতদিন না অনীত অভিযোগ হইতে উত্তীর্ণ হন তাবৎকাল পর্য্যন্ত বাদীর নামে তিনি তৎসজাতীয় কোন মামলা উপস্থাপিত করিতে পারিবেন না, কিন্তু বর্তমান ইংরাজী আইনে সে বিষয়ে কোন বিধি বা নিষেধ নাই। ইহাই এক্ষেত্রে উভয় আইনের পার্থক্য। বর্তমানকালের অপরাধ পরিদর্শন করিয়া ইংরাজ রাজনীতিজ্ঞেরা এই ব্যবস্থায় উপনীত হইয়াছেন। ইহাতে প্রাচীন আইন হইতে একটু সূক্ষ্ম পথের আবিষ্কার করিয়া তাঁহারা ভাল করিয়াছেন বলিতে হইবে।

প্রাচীন ভারতের ব্যবহার-শাস্ত্রের অভিপ্রায়ে দেখা যায়, কোন ব্যক্তি ঘটনা জানিয়া যদি সাক্ষ্য না দেয়, ঐ বিদিত-বৃত্তান্ত ব্যক্তি মানিত হউক বা অমানিত হউক উভয় স্থলেই সে অপরাধী। কিন্তু বর্তমান ইংরাজী আইনের অভিপ্রায়ে বাদী ও প্রতিবাদীর অমানিত ব্যক্তি ঘটনাভিজ্ঞ হইয়াও সাক্ষ্য না দিলে দোষী হইবে না।

এই পার্থক্যের মূলে কালধর্ম্যই প্রবল। কারণ, তখনকার কালে উপযাচক হইয়া সাক্ষ্য দিলেও বিচারকের চক্ষে দোষী না হওয়ার কারণ—তখন সকলেই সত্যবাদী ছিল। তাই অমানিত ব্যক্তিকে অবিশ্বাস করিবার কারণ ছিল না। কিন্তু বর্তমান কালে প্রায়ই তাদৃশ-ব্যবহারকারী সাক্ষী কল্পিত-বাক্যেরই অবতারণা করিয়া থাকে ও তাহাই করিতেছে বলিয়া বিচারক তাহার সাক্ষ্য গ্রহণ করেন না, প্রত্যুত সে দণ্ডার্থ হয়।

বর্তমান রাজকীয় আইন অনুসারে তাহারই অনুকরণে ভূমি, বৃক্ষ, গৃহ প্রভৃতি স্বাবর বস্তুর উপলক্ষে উপস্থাপিত বিবাদের বিচারক্ষেত্রে, তদ্বিষয়ে বিশেষজ্ঞের ( এক্সপার্টের ) সাহায্যে মানচিত্র ( ম্যাপ ) প্রস্তুত করাইয়া রাখিতে হয় ও তাহার উপর নির্ভর রাখিয়া বিচারক বিচার নিষ্পন্ন করেন।

ইংরাজী আইনে গুরুতর নরহত্যা প্রভৃতির মকদ্দমায় জুরীর ( রাজা কর্তৃক আহৃত সম্ভ্রান্ত ব্যক্তি ) সদস্যরূপে থাকার ব্যবস্থা আছে। কিন্তু প্রাচীন ভারতে লঘু, গুরু, গুরুতর সকল কার্যেই বিচারকের সহযোগিরূপে অনূন তিন জন ব্যবহারবিদ সুপণ্ডিত থাকিতেন। বিচারের সদস্য ভাব নিরূপণ করিবার নিমিত্ত ধর্ম্যাধিকরণে থাকিবার জন্য রাজা তাঁহাদের নিয়োগ করিতেন। ঐ সঙ্গে অপরাপর ব্যবহারবিদ পণ্ডিত ও বর্ণক-জনেরাও দর্শক হিসাবে ধর্ম্যাধিকরণে বিচারকার্য শুনিতে আসিতেন এবং গুণ-দোষ ধরাইয়া দিলে তাঁহাদিগের মীমাংসাও গ্রাহ্য হইত।

প্রাচীন ভারতে ভোগাধীন স্বত্বের প্রসঙ্গে বলা আছে যে, অপ্রতিবাদে ৬০ বর্ষ ভূম্যাদির ভোগ হইলে পূর্ববস্বামীর স্বত্ব নাশ হইয়া ভোক্তারই স্বত্ব তাহাতে উপস্থিত হইবে, ইহাতে ইংরাজী আইনের সঙ্গে বিশেষ পার্থক্য নাই।

যদি কোন ধনী মুমূর্ষুকালে পুত্র, কন্যা প্রভৃতি উত্তরাধিকারীর সমক্ষে বা অন্য যে-কোন উদাসীনের কাছে বলিয়া থাকেন যে, “আমি অমুকের অমুক দ্রব্য খোয়াইয়াছি, কি অমুকের অমুক দ্রব্য জোর করিয়া ভোগ করিয়াছি ও করিতেছি, কিংবা অমুকের অমুক ন্যাসীকৃত দ্রব্যের পরিবর্তে অসার দ্রব্য দিয়াছি, আমার উক্ত সম্পত্তি হইতে তাহা পূরণ করা হইবে,” তবে ঐ সকল সাক্ষীর সাক্ষ্য প্রমাণরূপে গ্রাহ্য, ইহা প্রাচীন ব্যবহার-শাস্ত্রে পাওয়া যায়। বর্তমান ইংরাজী আইনের মতের সহিত ইহার সামঞ্জস্য আছে, তবে প্রামাণ্যের বিশ্বাস্যতা বিচারকের ধারণার উপর নির্ভর করে ও প্রতিবাদ উপস্থিত হইলে সূক্ষ্ম সমাধানেরও আবশ্যকতা উদ্ঘোষিত হইয়াছে।

আর একটি কথা—পৌরাণিকের পূর্ববর্তী যুগে পিতাপুত্রবিরোধ-ক্ষেত্রে সাক্ষ্যপ্রদান দোষের ছিল, সুতরাং ঐ সাক্ষীকে দণ্ডও ভোগ করিতে হইত; এক্ষণে দেখিতে পাই—পৌরাণিকযুগে কতকগুলি ব্যবহারবিদ্ পণ্ডিত সমবেত হইয়া পিতাপুত্র-বিরোধে সাক্ষ্যদাননিষেধকে কলিতে উঠাইয়া দিয়াছেন। ইহা মাধবাচার্য্যের পরাশরভাষ্যে লিখিত আছে। সুতরাং ইংরাজ রাজনীতিজ্ঞেরা যে আজ বলিতেছেন ঐ সাক্ষ্য দোষের নহে, ইহা বহু পূর্বে আমাদের সূক্ষ্মদর্শী মনীষীরাও বলিয়া গিয়াছেন, সুতরাং ঐ বিষয়টিতে উভয়মতে অসামঞ্জস্য নাই।

### ধর্মশাস্ত্র ও অর্থশাস্ত্রে বিরোধ-স্থলে কর্তব্য

মীমাংসা-শাস্ত্রে বলা আছে ধর্মশাস্ত্রের সঙ্গে অর্থশাস্ত্রের বিরোধ উপস্থিত হইলে অর্থাৎ দুইটি বিভিন্ন মত দেখিতে পাইলে ধর্মশাস্ত্রেরই বলবত্তা স্বীকার করিতে হইবে। ইহাই সাধারণ ক্ষেত্রের সিদ্ধান্ত বটে, কিন্তু এ বিষয়ে সূক্ষ্ম সিদ্ধান্ত বুঝিতে হইবে যে, এই ‘অর্থশাস্ত্র—রাজ্য-শাসনের উপযোগে নিবদ্ধ বিচারশাস্ত্র, আর ধর্মশাস্ত্র—চতুর্বর্ণের ধর্ম্যচার-প্রতিপালনের উপযোগে নিবদ্ধ শাস্ত্র।

কোন একটি বিষয় ধর্মশাস্ত্রের অনুমোদিত হইয়াও অর্থশাস্ত্রের বিরোধী হইতে পারে, যেমন তিন পুরুষ ভোগে স্বত্ব হওয়ার কথা ধর্মশাস্ত্রে পাই, আবার অর্থশাস্ত্র বলেন—যত দিন ভোগ হউক না কেন, পূর্বস্বামীর স্বত্ব লোপ হইবে না, বরং ভোক্তা দণ্ড পাইবে। এ ক্ষেত্রের মকদ্দমায় ধর্মশাস্ত্রের অনুসরণে অর্থশাস্ত্রের সঙ্কোচ করা হইয়া থাকে।

যদি কোন ক্ষেত্রে এই জাতীয় বিরোধান্তর উপস্থিত হয়, তখন রাজা বা বিচারক নিযুক্ত পাণ্ডিতদের সঙ্গে আলোচনা করিয়া সিদ্ধান্তে উপনীত হইবেন। অর্থাৎ দেশ, কাল ও পাত্রের পক্ষে যেটি উপযুক্ত বুঝিবেন তাহাই করিতে পারিবেন, কারণ সে ক্ষেত্রে ( ইংরাজী আইনের ন্যায় ) প্রাচীন ভারতীয় আইনেও বিচারকের প্রতি পূর্ণ ক্ষমতা দেওয়ার আভাস পাওয়া যায়।

ধর্ম অতি সূক্ষ্ম ; যে চোর নহে সেও বিচারে মাণ্ডব্য মূনির মত চোরদণ্ডে দণ্ডিত হইতে পারে, সুতরাং পাত্রাপাত্র-বিচার অতি নিপুণ ভাবেই করা আবশ্যিক। দণ্ডবিধান কেবল শাস্ত্র অনুসারেই করিতে হইবে ইহা সর্বত্র অপেক্ষিত নহে, কাল ও দেশ অনুসারে বিচারের মীমাংসা আবশ্যিক।

এখনও অনেক স্থলে ঐ নিয়ম অবলম্বিত হয়। যেখানে মত্তপান-বেশাগমনাদিষটিত অপরাধের বিচার করা হয় তথায় অপেক্ষিত প্রমাণ বিষয়ে তত্তৎকার্যের সমধর্ম্মী মত্তপায়ী ধূর্ত প্রভৃতিদেরই সাক্ষ্য অগ্র গৃহীত হইবার কথা যে প্রাচীন ভারতীয় ব্যবহার-শাস্ত্রের উপদেশে আছে, ইহার সঙ্গে বর্তমান ইংরাজী আইনের ১৩৩ ধারার বেশ সামঞ্জস্য আছে দেখা যায়। কারণ ঐ আইনেও বলা আছে, পাপকার্যের মামলায় পাপ-কর্ম্মের সহযোগীদের সাক্ষ্যই প্রথম গ্রহণীয় হইবে।

আর প্রাচীন ভারতীয় আইনে প্রভুর যে কোন মকদ্দমায় ভৃত্যদের সাক্ষ্য অপ্রমাণ বলিয়া নির্দেশ আছে। কিন্তু বর্তমান আইনে ভৃত্য বলিয়া কোন নিষেধ নাই। ভৃত্যের সাক্ষ্য বিশ্বাসযোগ্য হইলে অপ্রমাণ করিবার কোন কারণ নাই। এ বিষয়টিতে উভয় আইনের অসামঞ্জস্য দেখা যায়।

ভারতীয় শাস্ত্রে ভূত পঞ্চদশ প্রকারের বলিয়া উল্লেখ আছে, কিন্তু বর্তমান আইনে এই বিশ্লেষণ দেখাইবার কোন উপযোগিতা না থাকায় সেই দাসের প্রকার-নিরূপণ নিষ্প্রয়োজন হওয়ায় তাহার বর্ণনায় বিরত হইলাম।

কোটিেলোর অর্থশাস্ত্রে (যাহা খৃষ্টপূর্ব ৪০০ বৎসরে রচিত বলিয়া অবধারণ করা হইয়াছে, তাহাতে) গ্রন্থকার নিজেই বলিয়াছেন যে, আমি পূর্ব পূর্ব আচার্য্যদের দণ্ডনীতি-শাস্ত্রসমূহের সার আলোচনা করিয়া এই অর্থনীতি পুস্তক প্রণয়ন করিলাম। ইহাতে প্রতীতি হয় যে, তাহার পূর্ব হইতেই সমাজসমিবেশের অনুসারে বহুতর অর্থশাস্ত্র ভারতে প্রণীত হইয়াছিল, বর্তমানে সে সকল শাস্ত্রের মধ্যে সকলই প্রায় বিলোপ পাইয়াছে, গ্রন্থান্তরে তাহাদের সংজ্ঞামাত্রের পরিচয় পাওয়া যায়।

প্রাচীন ভারতের মতে এক বস্তু ভিন্ন ভিন্ন সময়ে ভিন্ন ভিন্ন স্থানে বন্ধক রাখিয়া ঋণ করা হইলে পূর্ব ঋণদাতারই কার্য্য বলবৎ; বর্তমান আইনেও বলে, যদি ঐ বস্তু হইতে উভয় ঋণ শোধ না হয় তবে পূর্ব ঋণদাতারই ঋণশোধ হওয়া সম্ভব।

প্রাচীন ভারতীয় ব্যবহার-শাস্ত্রে বলা আছে যে, যদি কেহ কোন বস্তু একদিনেই একজনের কাছে বিক্রয়, একজনের কাছে বন্ধক ও অন্য জনকে দানপত্র করিয়া থাকে, তথায় ঐ তিন কার্য্যই বলবৎ প্রমাণরূপে গৃহীত হইয়া ঐ বস্তু সমভিত্তিতে তিনজনে লইবেন, আর যদি ভিন্ন ভিন্ন সময়ে ঐ সকল কার্য্য হইয়া থাকে তথায় পূর্ব কার্য্যই বলবৎ হইবে। এ বিষয়ে বর্তমান ইংরাজী আইনে বলা আছে—যে কার্য্যটি প্রথমে হইয়াছে তাহারই প্রামাণ্য গৃহীত হইবে, সুতরাং ঐ কার্য্যত্রয় ভিন্ন দিনেই হউক বা একদিনেই হউক তাহাতে কিছু ক্ষতিবৃদ্ধি নাই, কিন্তু ইংরাজী 'রেজেষ্ট্রেশন আইন' হওয়ায় একদিনে তিন কার্য্য অসম্ভব হয়।

ভারতের প্রাচীন কালের যতগুলি ব্যবহার-বিষয়ক পুস্তক বর্তমানে পাওয়া যায় তাহার অধিকাংশ পুস্তকেই চারিবর্ণের ও তাঁহাদের অনুলোম-প্রতিলোম সংসর্গে উৎপন্ন সঙ্করলিপি শাসনকল্পেই বিধিনিষেধ-বিচার-প্রণালী লক্ষিত হয়।

স্মৃত্যানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৮১

বৈদিকাচারের বিরোধী ভিন্নধর্মাবলম্বীদের শাসনপ্রণালী কোথায়ও নির্ণীত হয় নাই। সুতরাং এই সমস্ত ব্যবহার-শাস্ত্রকে বেদমার্গানুসারী বর্ণাশ্রমোদের শাসনকল্পে ব্যবহৃত হইবার কথাই বলা যায়।

সেইজন্ম ইহাদিগকে সাধারণতঃ ‘হিন্দু ল’, অর্থাৎ বর্ণাশ্রমীদের আইন-গ্রন্থ বলিয়া নির্দেশ করা হয়। এই সমুদয় শাস্ত্র দেখিলে ইহা প্রতীতি হয় যে, ভারতে তখনকার সমাজসংস্থান চতুর্বর্ণ লইয়াই গঠিত ছিল। ভারতে অন্ত্র ধর্মাবলম্বী প্রায় ছিল না। পরবর্তী কালে কচিৎ কোন মহাদেশ বা দ্বীপ হইতে বাণিজ্যাদি ব্যপদেশে কোন অবধর্মী আসিয়া বাস করিত। বর্তমানের ন্যায় নানা দেশ হইতে নানা ধর্মাবলম্বীর ভারতে এত ঘন ঘন আগমন ও বসতি করিয়া থাকা তখন ঘটে নাই।<sup>১</sup> অস্ত্রও বিবেচনা হয়, যখন শাসনগ্রন্থ রচিত হইতে থাকে তখন পৃথিবীতেও মনুষ্য-মাত্রেই প্রকারান্তরে বেদানুযায়ী ছিল; কেহ অগ্নি, কেহ সূর্য, কেহ অন্ত্র কিছুর উপাসনাকারী হইলেও বেদের আজ্ঞাবহ ছিল।

তবে বিধর্মীদের সম্বন্ধে শাস্ত্রে এই সামান্য আভাস মিলে যে, তাহাদের মধ্যে যে নিঃশ্রম, যে ধর্ম ও যে ব্যবহার চলিয়া আসিতেছে রাজা তাহার ব্যতিক্রম করিবেন না। যদি তাহাদের নিজেদের ভিতর কোন ব্যতিক্রম ঘটে তবে রাজা তাহার শাসন সাধারণ ভাবেই করিবেন।

ইংরাজী আইনের ৬৫ ধারায় বলা আছে যে, দলীল ( লিখিত পত্র ) যদি প্রতিবাদীর হস্তগত থাকায় বাদীর পাইবার সম্ভাবনা না থাকে তবে ঐ দলীলের বিচার্য বিষয়ের সত্যনির্ণয়ার্থে বাচনিক সাক্ষ্যও প্রমাণ হইতে পারিবে—যদি দলীলের কাল, দেশ, পাত্র, যুক্তি ও যোগ্যতা বিষয়ে ঐ বাচনিক প্রমাণ বিশ্বাসযোগ্য হয়। এ বিষয়ে প্রাচীন ভারতীয় আইনে যাহা বলা আছে, তাহা পূর্বে কিছু বলিয়া আসিয়াছি।

আর ভোগ-প্রমাণের পরিচয়ক্ষেত্রে বলিয়াছি যে, শাস্ত্রকারেরা ত্রৈপুরুষিক ভোগকে অস্মরণীয় কালের ( অর্থাৎ শত বৎসরের ) ভোগ নির্দেশ করিয়া ছিলেন, কিন্তু ঐ শত বৎসরকে সঙ্কোচ করিয়া ষাট বৎসরে যে অবধারিত

করিতে হইবে তাহা আর্থ প্রমাণেই প্রমাণিত হইয়াছে। স্মার্ত রঘুনন্দন ভট্টাচার্য্য দায়তত্ত্বে নারদস্মৃতির বচন উঠাইয়া মীমাংসা করিয়াছেন যে, ভূস্বামী অপ্রতিবাদে কুড়ি বৎসর সম্পত্তি ভোগ করিলে ভোক্তার পৌরুষিক ভোগ, চল্লিশ বর্ষে দ্বৈপুরুষিক এবং ষাট বৎসরে ত্রৈপুরুষিক ভোগ নিষ্পন্ন হয়, ইহার পরই অস্মরণীয় কাল, তখন আর কোন প্রমাণই আসিতে পারে না।<sup>১</sup> তবে ভোগেও আগম (অর্থাৎ ক্রয়-দানাদি পত্র) চাই;<sup>২</sup> ইহা সামান্যকালব্যাপী পৌরুষিক ভোগক্ষেত্রে বলিতে হইবে, নচেৎ ত্রৈপুরুষিক ভোগে বিনা আগমেই ভোক্তার স্বত্বোদয় ও পূর্বস্বামীর স্বত্বনাশ ঘটিয়া থাকে।

আর যেখানে একখণ্ড ভূমি এক ব্যক্তিকে বিক্রয় করা হইল, সেই ক্রেতার সম্মুখেই যদি বিক্রেতা অপর একজনকে পুনরায় উহা বিক্রয় করে এবং প্রথম ক্রেতা কোনরূপ প্রতিবাদ না করিয়া উপেক্ষা করিয়া যায় তবে তথায় প্রথম ক্রেতার স্বত্ব লোপ হইবে।<sup>৩</sup>

প্রবন্ধের মধ্যে লেখ্য-পরিচয় দিবার ক্ষেত্রে জয়পত্রের কথা উল্লেখ করিয়া আসিয়াছি। এই জয়পত্রের প্রথম প্রকার দেখান হয় নাই। যাহাতে বিচারকের বিচারে অর্থী ও প্রত্যর্থীর মধ্যে অন্তের জয়লাভের কথা লিপি দ্বারা সুবাক্ত থাকে অর্থাৎ বর্তমানের ভাষায় যাহাকে ‘রায়’ বলে তাহাও জয়পত্র। ইহা কি ভাবে লেখা হইবে সে বিষয় ব্যবহার-তত্ত্বের কাত্যায়ন ও বৃহস্পতির অভিপ্রায়মতে যেরূপ পাওয়া যায় তাহা পর পৃষ্ঠায় সংক্ষেপে দেখাইতেছি।

১ বর্ষাণি বিংশতিভুক্তা স্বামিনাং ব্যাহতা সতী ॥

ভুক্তিঃ সা পৌরুষী ভূমেদ্বিগুণা চ দ্বিপৌরুষী।

ত্রিপৌরুষী চ ত্রিগুণা, ন তত্রায়েষ্য আগমঃ ॥

—দায়তত্বধৃত-নারদ-স্মৃতিঃ।

২ আগমঃ কারণং তত্র সন্তোগো ন হি কারণম্ ॥

—বৃহস্পতিঃ।

৩ পশুংচ্চাত্তত্র দদতঃ ক্রিতিং যো ন নিবারয়েৎ।

স্বামী সত্যপি বেথ্যে চ ন পুনস্তাং সমাপ্নুয়াৎ ॥

—বৃহস্পতি-সংহিতা।

শ্রুতানুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৮৩

আর\* এক প্রয়োগেই সাক্ষী, লেখ্য ও ভোগ প্রমাণত্রয় নির্দোষ  
ভাবে উপস্থিত হইলে লেখ্যই বলবৎ প্রমাণ—তাহারই উপর নির্ভর করিয়া  
বিচারক বিচারকার্য নিষ্পন্ন করিবেন।<sup>১</sup>

এই যে বিচারকার্যে প্রমাণ কয়টির পরিচয় দেওয়া গেল, এ বিষয়ে  
ভারতীয় শাস্ত্রের অভিপ্রায় এইরূপ জানা যায়।—

দান, বিক্রয়, দ্যুত প্রভৃতি উপলক্ষে উপস্থাপিত বিবাদে সাক্ষীই  
প্রথম প্রমাণ।<sup>২</sup>

গৃহ-প্রবেশদ্বার ও জলপ্রণালীবিষয়ক বিবাদে ভোগই বলবৎ প্রমাণ।<sup>৩</sup>

মণি-মুক্তা-প্রবালাদির অপহর্তা ও তাহার অ্যাসাপহারী কুটকারী ও  
বিপথগামীদের শোধনক্ষেত্রে শপথই প্রথম প্রমাণ।<sup>৪</sup>

মহাপাতকাদি স্থলে প্রাণান্তিকবিবাদে সাক্ষী থাকিলেও অগ্ন্যতরের ইচ্ছা  
হইলে দিব্য প্রমাণ অগ্রে উপস্থাপনীয়, সাক্ষীকে জিজ্ঞাসা করা হইবে না।<sup>৫</sup>

\* লেখ্যে সতি ন বা দেয়ং দিব্যঞ্চ ন চ সাক্ষিণঃ ।

—বৃহস্পতিঃ ।

\* দত্তাদন্তে তথাহদন্তে স্বামিনা নির্ণয়ে সতি ।

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দ্যুতে সমাহ্বয়ে চৈব বিবাদে সমুপস্থিতে ।

সাক্ষিণঃ সাধনং প্রোক্তং, ন দিব্যং ন চ মানুষ্যম্ ॥

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—কাভ্যায়ন-স্মৃতিঃ ।

\* দ্বারমার্গক্রিয়াভোগ-জলবাহাদিকে তথা ।

ভুক্তিরেব বিজ্ঞানিঃ স্থান লেখ্যং ন চ সাক্ষিণঃ ॥

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—কাত্যায়ন-স্মৃতিঃ ।

\* মণিমুক্তা-প্রবালানাং কুটে তন্ম্যাসাপহারকঃ ।

হিংসকোহ্যায়কারী চ পরীক্ষ্যঃ শপথৈঃ সদা ॥

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—বৃহস্পতি-বচনম্ ।

\* মহাপাপাতিপাপেষু বিভ্রামানেষু সাক্ষিষু ।

দিব্যমালম্বতে বাদী ন গৃহ্যেত্তত্র সাক্ষিণঃ ॥

—বৃহস্পতি-বচনম্ ।



তবে প্রাণসংশয়কর বিবাদ প্রভৃতি সাহসকস্ম প্রমাণ করিবার স্থলে প্রমাণরূপে সাক্ষীকে পাইলেও দিব্য প্রমাণকেই শ্রেষ্ঠ প্রমাণরূপে গ্রহণ করিতে হইবে, অগ্রে সাক্ষীর কথা লওয়া হইবে না ।<sup>১</sup>

এবং অরণ্যে কি নির্জনে বা নিশাকালে বা গৃহাভ্যন্তরে কি সর্বথা অন্তের অলক্ষ্যে শ্রাসাপহরণ বা সাহসকস্ম ঘটয়া থাকিলে তাহার বিচারে দিব্যই বলবৎ প্রমাণ ।<sup>২</sup>

ঋণ-বিবাদে প্রথমেই লেখা, অনন্তর দিব্য পর্য্যন্ত গ্রাহ হইয়া থাকে ।

### জয়পত্র লিখিবার প্রণালী

উপস্থাপিত বিবাদে বাদী ও প্রতিবাদীর উক্তি-প্রত্যুক্তি ও সাক্ষীর বাক্য-সমুদয় রাজনিযুক্ত লেখকই পত্রে লিখিবেন । পরে বিচারক যাহাকে জয়ী করিলেন তাহার নাম ও জয় দিবার কারণ সেই পত্রে উল্লেখ করিয়া লিখিবেন এবং বাদী, প্রতিবাদী ও সাক্ষীর অন্যান্য উক্তির সঙ্গে বিচারদর্শী সভাসদ ও সহযোগী বিচারকদের উল্লিখিত সূক্ষ্ম কারণসকল পূর্বাপর ক্রমিক লেখা থাকিবে; এবং পক্ষ-প্রতিপক্ষের নিযুক্ত ব্যবহারবিদের (উকীলের) অবতারিত তর্কের মধ্যে কোন্টী কি কারণে গ্রাহ ও কোন্টী কোন্ কারণে অগ্রাহ তাহাও সম্পূর্ণ লেখা হইবে । এবং ইহাও বিশেষ করিয়া লিখিত হইবে যে, এই মোকদ্দমা এই সকল কারণে পুনর্বিচারের অযোগ্য কি না । অতঃপর উপরে সহযোগী সভাসদেরা স্বাক্ষর করিবেন এবং পরে সেই পত্রে বিচারক স্বয়ং স্বাক্ষর করিবেন ।

<sup>১</sup> প্রাণাস্তিক-বিবাদেষ্ বিত্তমানেষু সাক্ষিষু ।

দিব্যমালম্বতে বাদী ন পৃচ্ছেত্তত্র সাক্ষিণঃ ॥

—কাত্যায়ন-স্মৃতিঃ ।

<sup>২</sup> অরণ্যে নির্জনে রাত্রাবস্তবেশ্মনি সাহসে ।

শ্রাসাপহরণে চৈব দিব্যা সম্ভবতি ক্রিয়া ॥

—ব্যাস-সংহিতা ।

ইহাকেই প্রাচীনমতে জয়পত্র বলে এবং বর্তমান মতে হাকিমের রায় বলে। এই বর্তমান কালীন রায়ের সঙ্গে প্রাচ্য প্রণালীর এই জয়পত্রের 'সামঞ্জস্য আছে।

প্রবন্ধের মধ্যে আপিলের কিছু আভাস দিয়া আসিয়াছি ; সে বিষয়ে বক্তব্য এই যে—

যদি বিচারক শাস্ত্রানুসারে প্রমাণ না লইয়া থাকেন, আর সত্যজনের বিরুদ্ধভাবে পোষণ করিয়া বিচারককে অপথে চালিত করিয়াছেন বুঝা যায়, সে ক্ষেত্রে বিচার নিষ্পন্ন হইয়া গেলেও পুনর্বিচার করার কথা প্রাচীন ব্যবহারশাস্ত্রে তো আছেই, এখনকার ইংরাজ আইনেও সেই পন্থা অনুসৃত হইতেছে দেখা যায়।

এবং প্রাচ্যবিধানে ঐ আপিলের বিচার আবার সেই বিচারকই যেমন করিতেন ; এখনও হাইকোর্টের রুল জারী মতে ঐ বিচার সেই পূর্ব বিচারকের কাছেই অনেক ক্ষেত্রে হইয়া থাকে।

দিব্য প্রমাণ সম্বন্ধে একটি উপাখ্যান বলিয়া পরিশিষ্টের সমাপন করিতেছি—

দিব্য প্রমাণ যে কত বড় মহৎ ও সত্য তাহারই নিদর্শন—দিব্যতত্ত্ব-প্রণেতা রঘুনন্দন ভট্টাচার্য্যের সময়ে নবদ্বীপ সমাজের গোষ্ঠীপতির নিকট এক পতিব্রতা বিধবা জ্ঞাতিজনের উপর এই অভিযোগ আনেন যে, জ্ঞাতিরা তাঁহাকে যবন-দোষ দিয়া পয্যুদস্তা করিয়াছে। রাজা যতই প্রমাণ লইয়া বিচার করেন রমণীর অভিযোগ মিথ্যা দেখেন, কিন্তু রমণী তেজ-সহকারে জানান 'আপনি রাজা, অবলার বল ; অকারণ মিথ্যা-নিগ্রহের প্রতিবিধান করিলেন না।' রাজা তাঁহার কথায় চঞ্চল হইয়া বলিলেন, 'মা, মানুষ-প্রমাণে তোমার পরাজয় হেথিতেছি, তবে যদি তুমি ঋষিতুল্য রঘুনন্দনের বিচারে জয়লাভ কর, তাহারই যত্ন লও।'।

তখন সেই রমণী ঋষিতুল্য মহাত্মা রঘুনন্দনের শরণাগতা হইলেন। স্মার্ত ভট্টাচার্য্য মহাশয় প্রথম তুলা-পরীক্ষা করিয়া দেখিলেন রমণীর ভার কমিল না, কাজেই রমণীর পবিত্রতা বুঝিলেন না এদিকে রমণী বক্ষস্তাড়না প্রভৃতি তেজঃকার্য্য ও উজ্জ্বল বাক্য প্রয়োগ করিয়া তখনও বলিতে

লাগিলেন, ‘ভগবান্ জানিতেছেন আমি নির্দোষ।’ ইহাতে স্মার্ত্তপ্রবর চিন্তিত হইয়া পড়িলেন; শেষ দিব্য পরীক্ষার সংকল্পরচনায় সংসর্গদোষের উল্লেখ রাখিয়া পুনরায় পরীক্ষায় বসাইলেন, সেবার ঐ রমণী সে পরীক্ষায় নির্দোষ হইলেন। তখন সকলে বিস্মিত ও লজ্জিত হইয়া পড়িল, ক্রমে সূক্ষ্ম অনুসন্ধানে জানা গেল এবং ঐ রমণীর বুদ্ধা শ্রদ্ধাও স্বীকার করিলেন যে, নিজের যবন-সংসর্গ ঘটয়াছিল, তদুৎপন্ন পুত্রের ঐ পত্নী, নিজের পুত্রবধূ। তখন লোকে সেই বিধবা পুত্রবধূর প্রতি শ্রদ্ধা-সহকারে ধন্যবাদ দিল ও অতি লঘু সংসর্গদোষজ পাপের প্রায়শ্চিত্ত করাইয়া সমাজে লইল। ধন্য দিব্য পরীক্ষার ফল।

প্রাচীন সময়ে দুইজন বিচারপ্রার্থীর মধ্যে একজন সাক্ষ্যপ্রমাণ, ও অপরজন দিব্যপ্রমাণের উপর নির্ভর করিলে, সাক্ষ্যপ্রমাণক ব্যক্তিরই বলবত্তা ছিল। এ বিষয়ে কাত্যায়ন বলিয়াছেন—

যন্তোকো মানুষীং ক্রয়াদন্তো ক্রয়াচ্চ দৈবিকীম্।

মানুষীং তত্র গৃহীয়ান্ন তু দৈবীং কদাচন ॥

( অর্থাৎ, পরস্পরে পৃথক্ পৃথক্ প্রমাণ উপস্থাপিত করিলে, দিব্য-প্রমাণ অপেক্ষা মানুষ-প্রমাণই অগ্রে গৃহীত হইবে। )

এ বিষয়ের কারণরূপে তাহার পরই ঐ কাত্যায়নে আর একটা বাক্য প্রমাণরূপে পাইতেছি যে—

মণি-মন্ত্রৌষধিবলাৎ প্রদত্তঞ্চাভিধানতঃ।

বিসংবদেদ্বিব্যমপি ন তু সাক্ষী কদাচন ॥

( অর্থাৎ, যথাবিধানে মণি, মন্ত্র ও ঔষধিসহযোগে ব্যবহৃত হইলে দিব্য-প্রয়োগও অপথে চালিত হইতে পারে, সুতরাং তাহাতে সত্যনির্ণয় দুর্ঘট হইয়া পড়ে। কিন্তু গুণবান্ সাক্ষী কখনই ব্যভিচারী হন না। সুতরাং, তাদৃশ সাক্ষীর সাক্ষ্যই দিব্য অপেক্ষা বলবত্তর প্রমাণ। )

প্রাচীন শাস্ত্রে, কাত্যায়নও বৃহস্পতি ঋষিদ্বয়ের স্মৃতি-সংহিতা হইতে জানা যায় যে, “স্বাবর বস্তুর বিবাদে বা বাক্‌পারশ্রুনিবন্ধন ব্যবহারে

স্মৃত্যনুমোদিত সাক্ষ্যবিধির সহিত বর্তমান ভারতীয় সাক্ষ্যবিধির তুলনা ৮৭

দিব্য-প্রমাণ গ্রাহ্য নহে। তবে, যন্তবস্তুর অপহরণ-ঘটিত বিবাদে দিব্য-ক্রিয়ারই শ্রেষ্ঠত্ব।”

যদি ঋণঘটিত বিবাদে, বা ধনাদিগ্রাসক্ষেত্রে আহূত সাক্ষী স্তম্ভ থাকিয়াও ত্রিপক্ষের মধ্যে ধর্ম্মাধিকরণে উপস্থিত হইয়া সাক্ষ্য না দেয়, তাহা হইলে, অভিযোগের বস্তু বা অর্থ ঐ সাক্ষীর নিকট হইতে লইয়া, অভিযোক্তার দাবী শোধ করা হইবে; এবং সে ব্যক্তিকে অর্থাৎ সাক্ষীকে রাজা শাস্ত্রকথিত অশ্রু দণ্ডও দিবেন। এ বিষয়ে বৃহস্পতি বলিয়াছেন—

আহূতো যন্ত নাগচ্ছেৎ সাক্ষী রোগবিবর্জিতঃ ।

ঋণং দণ্ডঞ্চ দাপ্যঃ স্তাৎ ত্রিপক্ষাৎ পরতঃ পুনঃ ॥

বর্তমান আইনে, দ্বাদশবর্ষের মধ্যে অভিযোগ না আনিলে, লিখিত ঋণ বিফল হয়, অর্থাৎ তাহা হইয়া যায়। কিন্তু প্রাচীন আইনে, উক্ত কাল দশবর্ষ বলিয়া লিখিত আছে। উত্তমর্ণ দশবর্ষ উপেক্ষা করিয়া থাকিলে, উক্ত বিষয়ে আর অভিযোগ আনিতে পারিতেন না। কিন্তু, উত্তমর্ণ যদি বালক, স্ত্রীলোক, বৃদ্ধ, পীড়িত বা দেশত্যাগী হইতেন, কিংবা যদি দেশ রাজোপদ্রবে বিপন্ন থাকিত, তবে ঐ ঋণ তাহাদি হইত না। ইহাই কোটিল্য তাঁহার অর্থশাস্ত্রে বলিয়াছেন—দশবর্ষোপেক্ষিতমুণমগ্রাহমশ্রুত্র বাল-বৃদ্ধ-যোষিদ্-ব্যাদিতদেশত্যাগ-পরচক্রবিভ্রমেভ্যঃ ॥

বর্তমান আইনে ঐ তাহাদি হইবার কথা ১৪৩ ধারাতে বিধিবদ্ধ আছে।

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